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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SF
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1/13/97

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, JANUARY 13, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF TIME

DOCUMENTS DEPT
JAN 06 1997
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I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III Discussion and Possible Action Re: Minutes: Meetings of December 18, 1996.

IV. Chairperson's Report

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Discussion and Possible Action Re: Presentation by Martin Paley, Center for the Common Good

VII. Discussion and Possible Action Re: Development of Web Site for Electronic Filing

VIII. Discussion and Possible Action Re: Bylaws revision to clarify representation of the Commission.

IX. Discussion and Possible Action Re: Letter from S.E.I.U. dated October 25, 1996

X. Discussion and Possible Action Re: Letter from Supervisor Ammiano

XI. Discussion and Possible Action Re: Budget Preparation for FY 1997/98

XII. Discussion and Possible Action Re: Complaint Form

XIII. Agenda items for future meetings

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XV. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XVI. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 4
4 as plaintiff
0 as defendant

XVII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVII. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

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VIRGINIA C. GEE
CHAIRPERSON

GEOFFREY
GORDON-CREED
VICE-CHAIRPERSON

JOSEPH JULIAN
COMMISSIONER

ROBERT D.
DOCKENDORFF
COMMISSIONER

PAUL H. MELBOSTAD
COMMISSIONER

JANE E. RUBIN
EXEC. DIRECTOR

SAN FRANCISCO ETHICS COMMISSION NOTICE OF BYLAWS AMENDMENT

AT THE SCHEDULED REGULAR MEETING, TO BE HELD ON MONDAY, JANUARY 13, 1997 AT 5:00 P.M. AT 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM, THE ETHICS COMMISSION PROPOSES TO DISCUSS AND TAKE POSSIBLE ACTION ON THE FOLLOWING AMENDMENT TO ITS BYLAWS:

To add to Article XI, a new Section 2: Representation of the Commission

(See reverse side for text of new Section)

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Article XI: Standards of Conduct (Addition of new section)

Section 2: Representation of the Commission

Whenever the Commission learns that a view, position or opinion of the Ethics Commission as a whole has been misinterpreted or misrepresented in the media, at a hearing, or in a public forum, the Commission, through the Chair or the Chair's appointed representative, shall make every reasonable effort to clarify the Commission's true position as soon as practicable.

Whenever a Commissioner communicates with the news media, or appears at a public hearing or before another City Department to discuss existing or proposed legislation or policy, the Commissioner will make every reasonable effort to explain to the Commissioner's audience whether the Commissioner is expressing an opinion, view or position that is the individual Commissioner's, or a view, position or opinion of the Ethics Commission as a whole.

RATIONALE:

Adds a new section to clarify Commission policy re: representation of the Commission with regard to media, public forums, etc.

PROPOSED BY:

Ad Hoc Committee (Commissioners Gordon-Creed and Julian)

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Amended

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, JANUARY 13, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF TIME

AMENDED

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I. Call To Order and Roll Call

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IV. Chairperson's Report

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Discussion and Possible Action Re: Development of Web Site for Electronic Filing

VII. Discussion and Possible Action Re: Bylaws revision to clarify representation of the Commission.

VIII. Discussion and Possible Action Re: Fees, Penalties and Fines
Registration and filing fee schedules
Late filing penalties
Fines for non-compliance with registration requirements

IX. Discussion and Possible Action Re: Letter from S.E.I.U. dated October 25, 1996

X. Discussion and Possible Action Re: Letter from Supervisor Ammiano

XI. Discussion and Possible Action Re: Budget Preparation for FY 1997/98

XII. Discussion and Possible Action Re: Complaint Form

XIII. Agenda items for future meetings

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

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XVI. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 4
4 as plaintiff
0 as defendant

XVII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

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APPROVED 1/27/97

MINUTES OF THE SAN FRANCISCO ETHICS COMMISSION MEETING

1390 Market Street
Mezzanine Conference Room 227
January 13, 1997

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I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 5:10 p.m. The following were present:

MEMBERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert Dockendorff, Commissioner; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Jane E. Rubin, Executive Director; Ginny Vida, Investigator/Auditor; Cheryl Bernstein, Whistleblower/Educator; Shawn Allison, Administrative Assistant

OFFICE OF THE CITY ATTORNEY: Deputy City Attorney Claire Sylvia

OTHERS PRESENT: John Dunbar; David Pilpel; Anita Mayo, Pillsbury Madison & Sutro; Larry Bush; Robert Pender, Tenants Network; James Chaffee

DOCUMENTS DISTRIBUTED:
San Francisco Ethics Commission Agenda
Executive Director's Report to the San Francisco Ethics Commission
Authority to Impose and Collect Registration Fees and Late Fees
Notice of Bylaws Amendment
Complaint Procedure and Complaint Form
Legislative Digest and Supervisor Leal's Amendment to the Honest Election Ordinance
Memorandum from Margaret Kisliuk, Director of Intergovernmental Affairs, regarding an Update on State and Federal Matters
Memorandum from Executive Director Jane E. Rubin regarding the Budget Framework
Draft Minutes of the December 18, 1996 Commission Meeting
1997 Calendar

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There were no comments from the public.

III. Discussion and Possible Action Re: Minutes: Meetings of December 18, 1996

Commissioner Gee requested that staff send a copy of the approved November 12, 1996 minutes to the Commissioners. She also requested that language be added to the December 18, 1996 minutes regarding her statement that the December 16, 1996 Ammiano letter be entered into the record and made available to the public.

96-1-13-1 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the December 18, 1996 minutes be approved as amended.

Commissioner Dockendorff requested that the name of the Deputy City Attorney attending the meeting as counsel for the Commission appear on a separate line from the staff of the Commission.

IV. Chairperson's Report

Commissioner Gee reported that the performance review of Executive Director Jane Rubin is due shortly. She noted that the appropriate materials will be sent to the Commissioners to facilitate the performance review process.

Commissioner Gee respectfully requested that she be excused at 6:40 p.m. to honor a prior obligation. She asked Vice-Chair Gordon-Creed to chair the meeting in her absence.

V. Director's Report

A. Advice and Opinions Issued

B. Updates

C. Projects and Activities

Ms. Rubin reported that there were no advice or opinion letters issued in the previous month.

Ms. Rubin reported that the approved minutes for 1996 Commission meetings had been posted on the Web site. She noted that posting of minutes will continue as they are approved. Commissioner Gee commented that minutes are also available at the SF Public Library.

She also reported that the agenda for today's meeting had been posted on the Web site. She noted that posting of agendas will continue as they are approved.

Ms. Rubin reported that a new link from the Web site has been made to the FPPC Web site regarding Proposition 208. She also reported that the SEI Form 700 is available on the site. She stated that ISD staff has been most cooperative in updating the site in a timely fashion.

She reported that the Commission budget request is due in February. She noted that she is awaiting a December report to be released from the Controller's office.

Ms. Rubin reported that the ad hoc committee meeting on the Commission regulations was productive. A new draft of the regulations is forthcoming shortly. Commissioner Gee asked if a flow chart would be included, and Ms. Rubin indicated that one would be.

Ms. Rubin reported that she had met with Candace Heurlin of Staffing Services at the Department of Human Resources to discuss reclassification of current positions and classification of new positions in relation to the preparation of the budget request.

Ms. Rubin reported that she provided training on the mission and function of the Ethics Commission to the newly appointed aides to members of the Board of Supervisors.

Commissioner Melbostad inquired as to whether a letter had been sent to the lobbyists informing them about Proposition 208. Ms. Rubin responded that the letter sent to lobbyists with the Manual and Forms alerted lobbyists about Proposition 208. She said the letter did not provide specific details because the Commission is awaiting clarification from the FPPC on several issues. After some discussion, it was agreed that Ms. Rubin should follow-up with the FPPC. She will report back on this matter in her Executive Director's Report at the January 27 meeting. The Commission directed that a letter be sent out further notifying lobbyists about the provisions of Proposition 208 regarding lobbyists that may affect them even if a response was not received from the FPPC. A copy of the letter will be sent to the Commissioners.

Commissioner Dockendorff inquired as to whether a letter had been sent to major donors regarding their filing obligations. Ms. Rubin responded that the FPPC had recently issued an advice letter regarding jurisdictional issues with respect to the Ethics Commission and the Department of Elections. After some discussion, it was agreed that the Executive Director should contact the Department of Elections about sending a joint letter from the Commission and the Department of Elections to major donors. A copy of any such letter will be sent to the Commissioners.

VI. Discussion and Possible Action Re: Development of Web Site for Electronic Filing

Ms. Rubin reported that Rod Loucks of ISD was unable to attend today's meeting because he is ill. She stated that she and Shawn Allison had recently met with Rod Loucks and Ron Kane, also of ISD, to discuss the following topics: the viability of pdserf; the development of a front-end system for direct filing; and the re-design of the site itself to make the search engine more user-friendly. She noted that the meeting included a demonstration using previously filed data. She stated that the time frame for this project is approximately
2-4 months.

Commissioner Dockendorff stated that two primary issues are involved: (1) filing and (2) Internet database. He urged the Commission to set a standard filing format. He stated that the Commission should furnish the format so that filers need have access to only a

computer and a modem. He noted that filers not owning a computer could use the terminals at the SF Public Library. He recommended that the Commission work with the Los Angeles Ethics Commission and the Secretary of State on this matter.

Mr. Pilpel suggested that the Commission hold an ad hoc committee meeting, similar to the one regarding the regulations, to assist public input on this issue. Mr. Bush suggested that the Commission consider the ramifications for public access if filers are allowed to report contributor names without a standard format, such as Robert Smith, Bob Smith and R. Smith.

After some discussion, it was agreed that Commissioner Dockendorff would work with ISD staff and Ms. Rubin on this subject. Commissioner Dockendorff and Ms. Rubin will provide the Commission with periodic updates and recommendations as they proceed.

VII. Discussion and Possible Action Re: Bylaws Revision to clarify representation of the Commission

After some discussion, the following motion was passed:

96-1-13-2 (Gordon-Creed/Melbostad) Moved, Seconded and Passed: That the by-law amendment be adopted as drafted.

Commissioner Dockendorff voted no on this motion.

VIII. Discussion and Possible Action Re: Fees, Penalties and Fines
Registration and filing fee schedules
Late filing penalties
Fines for non-compliance with registration requirements

Commissioner Gee directed attention to the document "Authority to Impose and Collect Registration Fees and Late Fees". Commissioner Dockendorff urged the Commission to create a "pay as you use" type system. He suggested that the Commission raise the $35 lobbyist registration fee to $500, with the caveat that 501(c)(3) organizations would receive a 50% discount. He also suggested that the Commission create a ballot measure committee filing fee equal to a specified percentage of contributions the committee collects. He stated that these fees should go into the Commission budget, as opposed to the general fund.

Deputy City Attorney Claire Sylvia stated that at present there is no provision for revenue from fees collected to go anywhere other than the general fund. She stated that the Commission may be able to change this via an ordinance or other methods. She stated that she would research this issue.

Commissioner Gee asked if the Commission was authorized to raise fees. Ms. Sylvia responded that the Commission can raise some of the fees associated with lobbyists. She noted that there may be some limitations on the amount. She added that she needed to

research whether the Commission has the authority to create a ballot measure committee filing fee. She also added that a memorandum is currently being drafted regarding a number of these issues about fees. She noted that the memorandum will also address Commissioner Julian's inquiry regarding whether a potential conflict of interest exists in raising fees.

Mr. Bush urged the Commission to act soon in order to show the track record necessary for the Controller's office. Ms. Mayo suggested that the Commission consider the reasonableness of the fees. She stated that lobbying is a constitutional right and that an unreasonable increase in fees could have a chilling effect on one's right to redress grievances and bring matters to an official's attention. She urged the Commission to survey other ethics commissions and the FPPC to determine what their fees are. Mr. Pender asked the Commission to keep in mind those who are politically active but operate on a very small budget.

After some discussion, it was agreed that staff would analyze the costs of administering its various programs. Staff will also survey other ethics commissions to determine how they handle this issue. The City Attorney will have its memorandum ready for the January 27 meeting. Commissioner Dockendorff and Ms. Rubin will work together on these issues while keeping in mind the budget deadlines with regard to establishing a track record. Staff will form a set of proposals for the Commission to vote on regarding fees. An update on this matter will be placed as an agenda item for the next meeting. A special meeting will be called if necessary.

IX. Discussion and Possible Action Re: Letter from SEIU dated October 25, 1996

Commissioner Melbostad stated that he and Ms. Rubin had drafted the proposed letter together. Commissioner Melbostad asked the City Attorney to review the Commission's position regarding disclosure of information about the status of complaints.

Various changes were made to the draft letter and the letter as amended will be prepared for Commissioner Gee's signature.

96-1-13-3 (Melbostad/ Gordon-Creed) Moved, Seconded and Passed: To approve the letter as amended.

X. Discussion and Possible Action Re: Letter from Supervisor Ammiano

Commissioner Gordon-Creed stated that the initial response letter to Supervisor Ammiano, which included an invitation for him to come and speak to the Commission, had already been sent.

After some discussion, it was agreed that the Executive Director and the City Attorney should report on the implementation of the lobbyist ordinance with regard to whether the revised Lobbyist Manual and Forms should be sent to the Board of Supervisors and

whether the Commission needs to report to the Board on implementation of the Lobbyist Ordinance.

XI. Discussion and Possible Action Re: Budget Preparation for FY 1997/98

Ms. Rubin reported that the Commission's budget request includes the addition of two individuals to the staff: Senior Accountant and Senior Clerk-Typist. She noted that the Mayor has asked that a continuing budget document which includes no expansion at all and a document which includes additional requests to the current budget be submitted separately. The Mayor has asked that, with a view to the impact of welfare reform, departments try to bring their budgets in below current figures.

Commissioner Dockendorff stated that the Commission should consider making a supplemental budget request for this year with regard to the June election and the passage of Proposition 208. After some discussion, it was agreed that Ms. Rubin would prepare such a supplemental budget request.

There was some discussion as to the following factors: the Commission's history of being under-funded; linkage of the budget requests to the Commission's ability to perform Charter-mandated functions; and re-construction of the original funding of the Whistleblower position. It was agreed that Ms. Rubin would prepare for the next meeting a budget request with those discussions in mind.

XII. Discussion and Possible Action Re: Complaint Form

After some discussion, various changes were made to the complaint form and a new draft will be prepared by staff for a future meeting.

XIII. Agenda items for future meetings

Commissioner Melbostad requested two agenda items for future meetings: (1) a consideration of possible measures the Commission could place on the June ballot including, but not limited to, a measure based on the resolution the Commission passed regarding requiring political consultants to report information similar to that reported by lobbyists and to prohibit consultants from lobbying officials who still owe them money and (2) the package of legislation recently introduced by Supervisor Ammiano, including measures to implement Proposition 208, entitled "Honest Government Act". He noted that the deadline for placing issues on the ballot is February 21 and requested that staff draft specific proposals for the Commission to vote upon at a future meeting.

Commissioner Dockendorff requested that the item regarding fees be placed on the next agenda.

Commissioner Gordon-Creed requested two agenda items for future meetings: (1) Supervisor Leal's amendment to the Honest Election Ordinance and (2) legislative recommendations by Commission staff to the Board of Supervisors.

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Mr. Pilpel stated that he had not received a response to his letter addressed to the Commission. After some discussion, it was agreed that he would consult with Ms. Rubin after the meeting regarding resolution of his inquiry. Mr. Pilpel suggested that the Commission keep a close watch on the upcoming Los Angeles election to learn about the impact of Proposition 208 on local jurisdictions.

Mr. Bush inquired about the Ethics Commission's fulfillment of its Whistleblower obligations.

XV. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session

96-1-13-4 (Melbostad/ Gordon-Creed) Moved, Seconded and Passed: To move into closed session.

The Commission began its closed session at 8:35 p.m.

XVI. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 4
4 as plaintiff
0 as defendant

The Commission completed its closed session at 8:40 p.m.

XVII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

The Commission went into open session at 8:41 p.m.

96-1-13-5 (Julian/Dockendorff) Moved, Seconded and Passed: That the Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVIII. Adjournment

96-1-13-6 (Julian/Dockendorff) Moved, Seconded and Passed: That the Ethics Commission meeting shall adjourn.

The Commission adjourned at 8:41 p.m.

Respectfully submitted,

_____

Cheryl Bernstein Reiss
Whistleblower/Educator

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Ethics Commission

1/27/97

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, JANUARY 27, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF TIME

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III Discussion and Possible Action Re: Approval of Minutes: Meeting of January 13, 1997

IV. Chairperson's Report
A. Schedule for Executive Director's Performance Evaluation

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Discussion and Possible Action Re: Progress on development of web site for electronic filing

VII. Discussion and Possible Action Re: Implementation of standard complaint form

VIII. Discussion and Possible Action Re: Approval of budget submission for FY 1997/98

IX. Discussion and Possible Action Re: Submission of Request for Supplemental Appropriation for FY 1996/97 related to duties imposed by Proposition 208, and June 1997 election.

X. Discussion and Possible Action Re: Increasing registration and filing fee schedules for lobbyists, and instituting other registration fees.

XI. Discussion and Possible Action Re: Approval of methods for addressing increasing compliance with lobbyist registration

XII. Discussion and Possible Action Re: Impact of letter from FPPC regarding clarification of state and local filing offices for Campaign Finance Statements

XIII. Discussion and Possible Action Re: Impact of State Proposition 208

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XIV. Discussion and Possible Action Re: Progress of Supervisor Ammiano's Honest Election Ordinance, Supervisor Leal's amendment, and Supervisor Ammiano's new legislative package, the Honest Government Act

XV. Discussion and Possible Action Re: Development of legislative recommendations to Mayor and Board of Supervisors

XVI. Discussion and Possible Action Re: Sponsoring of Ballot Measures by Ethics Commission

XVII. Agenda items for future meetings

XVIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XIX. Adjournment

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Approved 2/10/97

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
January 27, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 5:10 p.m. The following were present:

COMMISSIONERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein Reiss, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Larry Bush; Rod Loucks, CCSF Information Services; John Dunbar; Anita Mayo, Pillsbury Madison & Sutro; Robert Pender, SF Tenants Network; David Pilpel; James Sutton, Nielsen Merksamer.

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, January 27, 1997
Draft Minutes of the SF Ethics Commission: Meeting of January 13, 1997
Executive Director's Report
Ethics Commission Budget Narrative
Letter to Mayor Brown re: Supplemental Appropriate Request
SF Ethics Commission Bylaws, amended January 13, 1997
Advice Letter from FPPC to Julia A. Moll, dated December 17, 1996
Draft Memo to Appointed Officials Re: Impact of Proposition 208: Restrictions Re: Making/Soliciting Campaign Contributions
Draft Letter to Complainants
Draft Complaint Procedure and Form
Memo to Ethics Commission from Cheryl Bernstein Reiss Re: Legislative Recommendations to the Mayor and the Board of Supervisors
Memo to Ethics Commission from Cheryl Bernstein Reiss Re: Fees (1/17/96)
Annual Costs of Lobbyist Filing
Memo to Ethics Commission from Cheryl Bernstein Reiss Re: Expansion of Lobbyist Registration (1/17/96)
Legislative Digest: Ethics Legislation Proposed by Supervisor Leal
Ordinance No. 374-96, Prohibiting Contracting with the City
Proposition K: Arguments For and Against Creating an Ethics Commission

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. David Pilpel ask that future agendas specifically describe the action contemplated by the Commission on a particular matter. Commission Chair Gee asked Executive Director Jane E. Rubin to work with the City Attorney's Office re: appropriate language.

III. Discussion and Possible Action Re: Minutes: Meeting of January 13, 1997. The minutes of January 13, 1997 were amended to incorporate an amendment requested by Commissioner Paul H. Melbostad, and were approved as amended.

Ms. Rubin advised that a letter to lobbyists had been sent out a week ago, and that shortly before today's meeting, the Department of Elections had agreed to send out a joint letter with the Commission to filers.

IV. Chairperson's Report

A. Schedule for Executive Director's Performance Evaluation. Commissioner Chair Gee advised that the Commission is in the process of conducting the Executive Director's performance evaluation. Instructions and a form sent out on January 17 should be returned to the Chair by January 31. A closed session will be held February 10 at 4:30 prior to the next regular meeting.

V. Director's Report

A. Advice and Opinions Issued. Ms. Rubin reported that no advice or opinions had been issued since the last meeting.

B. Updates

C. Projects and Activities

Ms. Rubin reported that staff had met earlier this week with Ron Kane of ISD, who will be working with the Commission and SDR on the semiannual filing due January 31. She said they hope to process the data and provide electronic access as soon as possible.

Ms. Rubin advised that with approximately 50 percent of the current fiscal year passed, the Commission has spent 39.2 percent of its budget. She reported that a lobbyist filing occurred on January 15, and that a lobbyist report and press release are in preparation.

Ms. Rubin reported that staff is distributing to department heads and commission secretaries the FPPC's new Form 700, Statement of Economic Interests. The filing deadline for annual statements is April 1.

Ms. Rubin advised that she had met with the Mayor's budget staff to review requirements for budget submission. A continuing budget must be submitted with no extra expenses in the base budget. Ms. Rubin also reported that she has submitted to the Department of Human Resources proposals for reclassification of staff positions.

David Pilpel requested a copy of the letter to lobbyists, and asked that in the future such documents be attached to the Executive Director's report.

Commissioner Paul H. Melbostad inquired as to what specific information the Commission can provide to the public about 1) the status of a specific complaint; and 2) the contents of the complaint log. Commissioner Gee asked Deputy City Attorney Julie Moll to advise the staff on this matter prior to the next meeting.

VI. Discussion and Possible Action Re: Progress on Development of Web Site for Electronic Filing. Commission Chair Gee called attention to a written report on the subject of electronic filing that had been mailed to commissioners.

Rod Loucks of ISD reported that Commissioner Dockendorff had met with him and his staff. Mr. Loucks stated that ISD sees the beginnings of the Commission's web site on the domino server. Some policy issues need to be resolved per Commissioner Dockendorff's preference for requiring a standard electronic format. Mr. Loucks reported that hardware which has been ordered to support this application should arrive in 2-3 weeks. ISD has a test site up using data from the Commission's existing site at SDR.

Ms. Rubin advised that has she contacted the Los Angeles Commission and a response is pending. She also contacted the Secretary of State's office, which advised that legislation is pending re: how they will proceed. The Secretary of State's Office asked the Ethics Commission to keep their office informed on how we proceed.

Commissioner Dockendorff explained that under his proposal, the Commission would ask ISD to design forms based on the Commission's current electronic requirements and would furnish these to filers so that all input would be in a standard electronic format. With this format, the Commission would avoid dealing with a series of vendors in different formats and would thereby simplify matters and keep costs down.

Mr. Loucks advised that he is trying to check with the American National Standards Institute, which is implementing an electronic data interchange format--a standard format which includes governmental reporting. ISD suspects that SDR is following the template of EDI standards but has actually developed it themselves. ISD has not been able to find and verify that standard, which would take the guesswork out of the interface. This standard will require maintenance. ISD's concern is that if SDR developed it, ISD could ask SDR to enhance it or add additional reporting requirements as these change. But that would result in reliance on SDR to provide this service. Alternatively, ISD could take it in house and avoid reliance on SDR. Commissioner Dockendorff stated that the latter option would cost less in the long run.

Ms. Rubin agreed, but noted that procedurally, since filings occur on a calendar, the Commission might want to have one voluntary round in the standard format so that filers can try it out and react to it. She also noted that there will be a reaction from vendors as well as users.

The following motion was approved unanimously:

97-1-27-1 (Dockendorff/Melbostad) Moved, Seconded and Passed: That the Commission ask ISD to develop a standard format for filings required to be reported electronically.-

Mr. Pilpel asked that pre-election filings from last November's election be made available electronically. Shawn Allison responded that there were 38 filers of pre-election statements and that although SDR had agreed to convert the data, it was a cumbersome process. Commissioner Gee asked staff to follow up with SDR.

Mr. Pilpel suggested that the Commission conduct a joint workshop with ISD for electronic filers. Mr. Loucks advised that ISD has training rooms appropriately equipped for such presentations. Commissioner Gee asked staff to follow up on this suggestion.

After further discussion it was decided that Commissioner Joseph Julian will ask a professor at San Francisco State to review, pro bono, the Commission's plans for a standard format and provide a second opinion. Rod Loucks stated that ISD will produce a document clarifying the proposal, with sample screens.

VII. Discussion and Possible Action Re: Implementation of a Standard Complaint Form

After some discussion, during which various amendments to a proposed complaint form were suggested, the following motion was approved unanimously:

97-1-27-2 (Julian/Gordon-Creed) Moved, Seconded and Passed: That the proposed complaint form be adopted as amended.

The Commission then discussed a draft letter to complainants acknowledging receipt of a written complaint. After some discussion, the following motion was approved unanimously:

97-1-27-3 (Gordon-Creed/Julian) Moved, seconded and passed: That the proposed letter to complainants be adopted as drafted for non-Whistleblower complaints.

Commissioner Melbostad suggested that the letter provide additional information to complainants about when they might expect to receive notice of Commission action or plans for action. Commissioner Melbostad requested that if a meeting has been scheduled to discuss a complaint, the complainant should be so advised. Ms. Moll agreed that such information could be provided.

Larry Bush stated that the letter to complainants should include a separate paragraph stating that Whistleblower complaints are investigated directly by the Commission, and not referred to the City Attorney and District Attorney.

Ms. Moll advised that all complaints filed with the Commission, including Whistleblower complaints, must be referred to those offices if the complaints appear to allege a violation of law.

Mr. Bush stated that this view represents a misinterpretation of the Charter. He said that the Whistleblower program had previously operated as a separate unit before being transferred to the Commission and that the Whistleblower ordinance continues to authorize independent investigation of complaints.

The Commission agreed to ask Ms. Moll to provide a written opinion re: whether Whistleblower complaints must be referred to the City Attorney and District Attorney.

VIII. Discussion and Possible Action Re: Approval of Budget Submission for FY 1997-98

Ms. Rubin reported that she had attended meetings with the Mayor and the Mayor's Budget Office, at which the content and format for budget submissions was clarified. A budget examiner has been assigned to the Commission to review its proposal for a continuing budget, new initiatives budget and supplemental budget.

Ms. Rubin explained that the only addition to the Continuing Budget could be an increase in salaries if the Department of Human Resources approves a request for reclassification of staff positions. She also noted that per instructions from the Mayor's Budget Office, expenses which are billed to the Commission by other departments had been broken out from "other current expenses" and transferred to "services of other departments." Ms. Rubin advised that any other changes or additions to the budget request must be presented as part of new initiatives expenditures in a separate report.

Ms. Rubin noted that items in the New Initiatives Budget must refer to a new or expanded service. This portion of the budget includes $26,500 for a move to larger premises, and two staff positions: a senior accountant to conduct audits on a full time basis, and a senior clerk-typist. A request for $15,000 to ISD for a half-time staff person assigned to the Commission is also included, in addition to continuing expenses to ISD of $25,000. Ms. Rubin advised that the deadline for submission of the budget is February 21. Notice from Human Resources on staff reclassifications may come close to that date.

Commissioner Dockendorff suggested, and it was agreed, that additional responsibilities related to handling elections for March and June 1998 be included. It was also agreed that Ms. Rubin will add language to clarify the special role of the proposed clerical position, and to stress that additional staff resources are needed in connection with additional Commission meetings.

Commissioner Gordon-Creed, Commission Chair Gee, and Commissioner Julian commended Ms. Rubin for her work in preparing the budget.

Commissioner Melbostad noted that the staff is grossly underpaid and said he hoped the reclassifications would be approved. Commissioner Dockendorff asked that the staff reclassification proposal (job descriptions) be sent to Commission members.

Commissioner Melbostad suggested that the Executive Director discuss with executive directors of other commissions how they rotate staff in attending commission meetings to reduce the burden on staff of attending all meetings. Ms. Rubin explained, however, that Ethics Commission staff had expressed a desire to attend all meetings. Commission Chair Gee stated that staff's assignment to multiple functions also requires attendance at all Commission meetings as subject experts.

IX. Discussion and Possible Action Re: Submission of Request for Supplemental Appropriation for FY 1996/97 Related to Duties Imposed by Proposition 208, and June 1997 Election.

Ms. Rubin discussed highlights of the Supplemental Budget request totaling $14,670, a 5 percent increase in the Commission's budget, in connection with implementation of Proposition 208 and the special election in June. Commissioner Melbostad requested that compelling examples be added to illustrate how consuming of Commission resources the implementation of Proposition 208 will be, and how limited the Commission is to perform significant auditing of increased and complex reporting associated with Proposition 208's required filings. Larry Bush suggested that the budget mention the requirement that the Commission office be open the Saturday before the election.

The following motion was passed unanimously:

97-1-27-4 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the Supplemental Budget be approved with amendments specifying examples and justifying larger numbers.

Larry Bush suggested that the Commission hold a one-day training on Proposition 208, paid for by participants active in the special election. He stated that the Commission's supplemental budget request will be more effective if it can demonstrate that it is trying to defray some of the costs.

It was agreed to move forward with all budget requests.

The Commission took a break at 6:35 p.m. and reconvened at 6:45 p.m.

X. Discussion and Possible Action Re: Increasing Registration and Filing Fee Schedules for Lobbyists, and Instituting Other Registration Fees.

Ms. Rubin discussed the staff survey of other ethics commissions re: lobbyist registration fees. Los Angeles charges $300 per lobbyist per year, based on the cost of administering the lobbyist program. The FPPC charges $25. Hawaii and Alaska do not charge. Ms.

Rubin also reported that the annual cost to the Commission of handling lobbyist registration is $320.88 per lobbyist, compared to its annual registration fee of $35.

Commissioner Dockendorff asked that wages and benefits, and the cost of detailed audits, lobbyist seminars, requests for opinions and overhead costs be taken in account in calculating costs to the Commission. Ms. Rubin stated that if the Commission defrays some costs by charging fees for seminars, it could not request additional funds to cover those costs.

Ms. Moll inquired how the Commission planned to apportion the fees. She noted that the Commission might charge a registration fee and also a per-client fee. Lobbyists who have more clients would then bear more of the costs.

Commissioner Gordon-Creed suggested that the Commission examine the filings to see who the clients are, and consider setting a lower fee for filers representing small clients.

Anita Mayo requested that if a fee is imposed, it be reasonable. She noted that the Commission is contemplating a large increase in fees.

Larry Bush stated that the arguments from the Controller and Board of Supervisors that accompanied the ballot measure creating the Commission both indicated that some of the Commission's expenses would be defrayed by levying fees. He also stated that no lobbyists who are currently registered represent small clients.

It was agreed that staff will prepare a fee proposal for the next Commission meeting. This information will also be factored into the budget.

Shawn Allison suggested that once the new fees are set, they be tied to increases in the consumer price index to avoid large increases in the future.-

The following motion was approved unanimously:

97-1-27-5 (Melbostad/Gordon-Creed) Moved, Seconded and Passed: That the Commission schedule a vote at the next meeting on increasing fees for lobbyists to be more closely related to costs of operating the lobbyist program and taking into account information provided by staff as to costs of operating the program and the identity of the lobbyists and their clients; and also taking into account the impact of tying subsequent increases to the consumer price index.

Anita Mayo stated that an increase is fees would require amending the lobbyist ordinance.

Staff will present follow-up data at the next meeting.

XI. Discussion and Possible Action Re: Approval of Methods Addressing Increasing Compliance with Lobbyist Registration.

Ms. Rubin reported that staff had prepared a memo dated January 17 with proposals for increasing compliance with lobbyist registration. These include: voluntary speaker cards, placing advisory language on the agendas of other boards and commissions, sending out a list of registered lobbyists and asking for additions to the list, and a voluntary sign-in log at city offices.

Commissioners expressed their preferences for the various options. After some discussion, the following motion was approved unanimously:

97-1-27-6 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the Commission send to the Board of Supervisors, department heads and members of boards and commissions a list of currently registered lobbyists asking recipients of this mailing to report, anonymously or otherwise, any unregistered lobbyists (as defined in the Lobbying Ordinance) that they are aware of; and that the Commission staff be directed to prepare, when time permits, a log form to be kept by city officers at their offices that visitors would be asked to sign, indicating the reason for their visit.

Anita Mayo urged that recipients of the mailing be informed about the level of activity required to reach the legal definition of a lobbyist.

Per a suggestion by Commissioner Melbostad, it was also agreed that staff will prepare language for a notice to appear on the agendas of meetings or hearings held by other city commissions.

Commissioner Dockendorff suggested increasing the number of boards affected by the Lobbyist Ordinance to include the Board of Education and Community College Board, since they award large contracts. Ms. Moll agreed to research this proposal.

It was agreed that option No. 1 would not be pursued; that options 2, 3 and 4 would be pursued, and that the Commission would investigate adding other entities.

XII. Discussion and Possible Action Re: Impact of Letter from FPPC Regarding: Clarification of State and Local Filing Offices for Campaign Finance Statements.

It was agreed that the FPPC's letter re: state and local filing offices for campaign finance statements will be made available to the public.

After some discussion, it was agreed that Ms. Rubin will prepare a letter to the Mayor and the Board of Supervisors, with a copy of the FPPC's letter attached, informing them of the FPPC's advice that the Ethics Commission can only serve as filing officer for local elected candidates and local committees.

Commissioners Dockendorff and Melbostad urged that the Commission pursue a change in state legislation authorizing the Commission to receive additional statements now being filed with the Department of Elections.

Ms. Moll explained that the Commission or staff could contact the State Legislation Committee of the Board of Supervisors to see if the City would pursue such a change. Ms. Rubin stated that the Commission should proceed cautiously in pursuing this change until it has adequate staff to handle the major increase in filings that this transfer would entail. She noted that local filings account for only 10 percent of campaign financial statements filed. Ms. Moll stated that in the meantime, she would work with Commission staff to prepare a one-page information sheet for filers to clarify whether they should file with the Commission or the Department of Elections.

Ms. Rubin advised that per a recent meeting with the Department of Elections, the Commission will undertake transport of some files based on the FPPC's advice letter.

Mr. Bush suggested that the Commission and the Department of Elections engage in cross checking on what is filed and disclosed, and notify each other if they come across persons who should be filing as major donors. He stated that the San Francisco Giants spent $1 million but did not register with any filing officer.

XIII. Discussion and Possible Action Re: Impact of Proposition 208. Ms. Rubin advised that staff has prepared a draft memo to appointed officials and appointing officers re: Proposition 208's provision that appointed officials may not contribute to the campaigns of their appointing officers, and may not solicit or accept contributions on behalf of their appointing officers. It was agreed that the letter will refer people to the City Attorney's office if they need assistance in identifying their appointing officer.

XIV. Discussion and Possible Action Re: Progress of Supervisor Ammiano's Honest Election Ordinance, Supervisor Leal's amendment, and Supervisor Ammiano's New Legislative Package, the Honest Government Act. Commissioner Melbostad reported that a new package for Supervisor's Honest Government Act is being drafted by the City Attorney's Office. Commissioner Melbostad advised that Supervisor Ammiano has not decided whether to seek passage of a compromise for the previously proposed Honest Election Act or try to put a stronger version on the ballot. He also advised that the Commission not pursue Supervisor Leal's amendment, which was not supported by other members of the Board.

XV. Discussion and Possible Action Re: Development of Legislative Recommendations to Mayor and Board of Supervisors.

The Commission reviewed a list of 10 proposed recommendations prepared by Cheryl Bernstein Reiss. Commissioner Melbostad requested that an eleventh item be added, which he will draft, re: regulating for-profit slate mailers.

After further discussion, it was agreed that Commissioner Melbostad will work with Ms. Reiss on a revised draft of legislative recommendations that incorporates comments and preferences expressed at today's meeting. Commissioner Melbostad invited other commissioners to contact him or Ms. Reiss with additional ideas. At the next commission meeting, Commissioner Melbostad will present three or four recommendations for discussion, indicating which can be achieved by a change in regulation, enactment of legislation, or placement on the ballot. It was also agreed that the Commission will decide at the next meeting whether to schedule a special meeting to review the recommendations.

XVI. Discussion and Possible Action Re: Sponsoring of Ballot Measures by Ethics Commission.

It was noted that measures may only be placed on the ballot in connection with general elections. The June election is a special (rather than a general) election.

XVII. Agenda Items for Future Meetings

Commissioner Dockendorff requested that Ed Lee be invited to the February 24 meeting to discuss the Whistleblower ordinance.

Ms. Rubin was asked to provide a revised calendar that includes additional meetings which would be scheduled if the Commission decides to continue meeting semi-monthly after March.

XVIII. Public Comment on Matters Appearing or Not Appearing on the Agenda.

Mr. Bush stated that the Whistleblower Ordinance allows the Commission to refer complaints to other departments. He also asked why recently enacted conflict of interest legislation had not been referred to the Commission.

It was agreed that a confidential copy of the complaint log would be provided to Commission members.

XIX. Adjournment. The meeting was adjourned at 8:38 p.m.

Respectfully submitted,

_____

Ginny Vida
Investigator/Auditor

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, FEBRUARY 10, 1997, 4:30 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF TIME

I. Call To Order and Roll Call

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

III. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

IV. Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.11: Personnel (Performance Evaluation for Executive DIrector)

V. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken on discussions held in closed session.

> Motion: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: personnel (Performance Evaluation for Executive Director.)

VI. Discussion and Possible Action Re: Approval of Minutes: Meeting of January 27, 1997

VII. Chairperson's Report

VIII. Director's Report
- A. Advice and Opinions issued
- B. Updates
- C. Projects and Activities

IX. Discussion and Possible Action Re: Approval of budget submission for FY 1997/98

X. Discussion and Possible Action Re: Legislative recommendations to Mayor and Board of Supervisors

XI. Discussion and Possible Action Re: Increasing lobbyist registration and lobbyist filing fee schedules

XII. Discussion and Possible Action Re: Approval of methods of promoting compliance with lobbyist registration

XIII. Discussion and Possible Action Re: Amending Lobbbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Commission

XIV. Agenda items for future meetings

XV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XVI. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XVII. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:

Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 2
2 as plaintiff
0 as defendant

XVIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIX. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
February 10, 1997, 4:30 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 4:35 p.m. The following were present:

COMMISSIONERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Joseph Julian, Commissioner; Paul H. Melbostad, Commissioner

STAFF PRESENT: Shawn Allison, Administrative Assistant; Cheryl Reiss, Whistleblower/Educator; Ginny Vida, Investigator/Auditor

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Thomas A. Bogott, Office of the District Attorney; Larry Bush; John Dunbar; Jennifer Gregg, Nielsen Merksamer; Anita Mayo, Pillsbury Madison & Sutro; David Pilpel; Rich Rovetti, Mayor's Office; Susan Stephenson, Prop 208 Campaign

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, February 10, 1997
Complaint Procedure
Complaint Form
Budget Narrative
1997 Calendar
Annual Costs of Lobbyist Filing
Minutes of the January 13, 1997 Commission Meeting
Draft Minutes of the January 27, 1997 Commission Meeting
Lobbyist Information as of Filing Deadline 1/15/97
Draft Letter re: Survey of Lobbyist Activity
Draft Form re: Unregistered Lobbyists
Proposed Language for Other Board/Commission Agendas
Draft Voluntary Sign-In Log Sheet
Recommendations to the Mayor and the Board of Supervisors
Executive Director's Report

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda
There was no public comment.

III. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session

97-2-10-6 (Gordon-Creed/Julian) Moved, Seconded and Passed: To move into closed session.

The Commission began its closed session at 4:37 p.m.

IV. Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.11: Personnel (Performance Evaluation for Executive Director)
The Commission completed its closed session at 5:20 p.m.

V. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

97-2-10-7 (Gordon-Creed/Julian) Moved, Seconded and Passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: personnel (Performance Evaluation for Executive Director.)

Susan Stephenson introduced herself as a former grassroots organizer for the Proposition 208 Campaign. She thanked the Commission for its work regarding the implementation, education and enforcement regarding Proposition 208 and the Campaign Finance Reform Ordinance.

VI. Discussion and Possible Action Re: Approval of Minutes: Meeting of January 27, 1997
Commissioners Gee and Melbostad requested that several changes be made to the draft minutes.

97-2-10-8 (Julian/Gordon-Creed) Moved, Seconded and Passed: That the January 27, 1997 minutes be approved as amended.

VII. Chairperson's Report
Commissioner Gee reported that the supplemental budget request has been submitted. She noted that the amount had been increased to $18,720 at the Commission's request.

Commissioner Gee reported that the next step in the process regarding the performance evaluation of the Executive Director will take place at the next Commission meeting from approximately 5:00 - 6:00 p.m.

She reported that Commissioner Julian had a special announcement. Commissioner Julian stated that he was resigning from the Commission effective 6:30 p.m. He stated that although he had enjoyed his service on the Commission, he had accepted an appointment to the Juvenile Probation Commission where he hoped to make a difference with at-risk

and disadvantaged youth. Commissioners Gee, Dockendorff, Gordon-Creed and Melbostad thanked Commissioner Julian for his contributions to the Commission.

VIII. Director's Report
Ms. Vida reported on behalf of Ms. Rubin.

A. Advice and Opinions Issued
Ms. Vida reported that no advice or opinions had been issued since the last meeting.

B. Updates
Ms. Vida reported that the approved Complaint Form has been transmitted to ISD for placement on the web site.

Ms. Vida reported that the deadline for budget submission is February 21. She asked that the Commission grant permission for Ms. Rubin to submit the budget because the next Commission meeting, February 24, does not occur until after the budget deadline.

Commissioner Gee asked if the reclassification analysis for staff positions would be completed prior to the budget deadline. Ms. Vida responded that there was not an absolute commitment from the Department of Human Resources that the analysis would be completed by the budget deadline. Commissioner Dockendorff suggested that Commissioner Gee join Ms. Rubin in a future meeting with Human Resources in order to show Commission support of the reclassification of staff. Commissioner Gee responded that she would talk to Ms. Rubin and would be happy to pursue this idea if it would make a difference. She noted that Ms. Rubin had been quite adept at dealing with human resources issues in the past. Ms. Vida noted that an additional meeting with Human Resources has not been contemplated. Shawn Allison explained the process of reclassification, involving review of proposed job descriptions by a Human Resources job analyst and subsequent recommendation.

C. Projects and Activities
Ms. Vida reported that the filing of semi-annual campaign statements occurred on January 31, 1997. She noted that several hundred hard copy and electronic statements have been received by the office.

She reported that a letter to major donors was mailed to over 400 entities. She also reported that a letter with detailed instructions was mailed to all department heads and secretaries of boards and commissions regarding the filing of Statements of Economic Interests for 1996-1997. She stated that letters and information were sent to all department heads for distribution to their appointed officials regarding the prohibition on contributions contained in Proposition 208. She also stated that the FPPC opinion on the jurisdiction of state and local filings was sent with a covering letter to the Mayor and the Board of Supervisors.

Mr. Pilpel inquired as to the availability of information to the public regarding the complaint log which was made available to the Commission as a confidential document. Ms. Moll responded that limited, statistical information is in the current Executive Director's report. Mr. Pilpel asked if the public could receive information as to the categorization of the types of complaints received by the Commission. Commissioner Gee stated that this subject will be a follow-up item on the next agenda. Commissioner Melbostad requested that the follow-up include the specific authorities Ms. Moll is relying on for her opinion regarding the information available to the public about complaints.

Ms. Vida reported that Mr. Edwin Lee, Director of Purchasing, had accepted the invitation to speak to the Commission on February 24 about his former position as a Whistleblower.

IX. Discussion and Possible Action Re: Approval of budget submission for FY 1997/98

97-2-10-9 (Julian/Gordon-Creed) Moved, Seconded and Passed: That in order to meet the budget deadline, the budget is approved as projected with the understanding that missing figures will be supplied pending Commission decisions regarding fees and staff reclassification.

Mr. Bush inquired if the budget amount regarding fringe benefits includes health benefits for Commissioners. Ms. Moll stated that all Commissioners are entitled to participate in the City's health service system.

X. Discussion and Possible Action Re: Legislative recommendations to Mayor and Board of Supervisors
The following section summarizes the discussion and decisions made regarding the nine proposed recommendations.

❶ Regulation of Campaign Consultants Engaging as Lobbyists
Commissioner Melbostad stated that the next step is for the City Attorney to prepare specific language for a November ballot measure. Commissioner Melbostad inquired about the feasibility of using significant portions of the language in the Lobbyist Ordinance. Ms. Moll responded that in the interest of clarity, it may be necessary to articulate separate reporting requirements for political consultants. Commissioner Gee suggested that the Commission may want to consider holding a special meeting to address this issue, if necessary. Commissioner Melbostad asked when the deadline is by which the Commission could withdraw its ballot measure submission, should the need arise. Ms. Moll agreed to research this issue.

97-2-10-10 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney shall prepare rough draft language for a measure that the Commission would consider placing on the fall election ballot regarding the two policy resolutions passed by the Commission last year concerning the regulation of campaign consultants engaging as lobbyists.

❷ Regulation of Slate Cards
After some discussion, the following motion was passed.

97-2-10-11 (Melbostad/Julian) Moved, Seconded and Passed: That the staff and the City Attorney report back with a framework for carrying out the proposal regarding the regulation of slate cards. The report should address the validity of the measure outlined in the summary of legislative recommendations, as well as the existence of alternative proposals to achieve the same purpose. The report should also point out enforcement and/or legal issues. A special hearing on the regulation of slate cards will be held.

❸ Campaign Finance Reform Ordinance
97-2-10-12 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney issue an opinion as to whether this proposal can be addressed via regulation or rule.

❹ Campaign Contributions
97-2-10-13 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney issue an opinion as to whether this proposal can be addressed via regulation or rule.

❺ Electronic Filing
97-2-10-14 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney prepare a draft ordinance and analysis of legal issues for the Commission's consideration.

❻ Compensation by City Agencies of Lobbyists
97-2-10-15 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney report back on whether this proposal can be addressed via regulation or ordinance. The proposal is amended to include compensation by city officials, as well as city agencies.

❼ Improper Government Activities Ordinance
Commissioner Melbostad emphasized that the purpose of this proposal is not to weaken the complaint process, but rather to enable the Commission to refer complaints directly to other agencies if that agency is better suited to handle that particular type of complaint. After some discussion, it was agreed to refrain from acting on this proposal until the Commission has had the opportunity to hear from Mr. Lee. The Commission directed the staff and the City Attorney to report back regarding the authority of the Commission to refer complaints to other agencies. The report should also include any possible changes to the ordinance that may be appropriate for the Commission to consider regarding making the process more efficient.

❽ Threshold for Required Reporting of Late Contributions

Mr. Allison asked the Commission to consider that an increase in late contribution reporting could create a burden on staff in terms of a significant increase in clerical work.

97-2-10-16 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney prepare a draft ordinance for the Commission's consideration regarding this proposal.

❾ Prohibition on Contributions by Those Seeking City Contracts
97-2-10-17 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the City Attorney report back at a future date regarding whether the Commission has the authority to define the scope of a "contract" as it relates to the prohibition on contributions. This report should also address leases, permits, and other types of City approvals (such as conditional use authorizations).

XI. Discussion and Possible Action Re: Increasing Lobbyist Registration and Lobbyist Filing Fee Schedules
The Commission considered the impact of the cost of auditing 20% of the lobbyists on the current $15.00 client registration fee. Commissioner Melbostad expressed concern about the effect of a fee increase on different types of clients. Ms. Reiss stated that the document entitled "Lobbyist Information as of Filing Deadline 1/15/97" might prove helpful in identifying the range of clients registered with the Commission.

Commissioner Gee inquired as to the process involved in facilitating a fee increase. Ms. Moll responded that the process entails the Commission proposing that the Board of Supervisors amend the Lobbyist Ordinance. The Board would hold hearings on the proposed amendments.

After some discussion, the following motion was passed.

97-2-10-18 (Dockendorff/Melbostad) Moved, Seconded and Passed: That the Commission increase the lobbyist registration fee to $375 and the client registration fee to $100. The City Attorney shall draft a change to the lobbyist ordinance that would be forwarded to the Board of Supervisors.

XII. Discussion and Possible Action Re: Approval of Methods of Promoting Compliance with Lobbyist Registration
After some discussion, the following motion was passed.

97-2-10-19 (Melbostad/Dockendorff) Moved, Seconded and Passed: That the staff be directed to forward the proposed language to other boards and commissions for placement on their respective meeting agendas.

After some discussion, the following motion was passed.

97-2-10-20 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the staff be directed to implement the proposed mailing regarding unregistered lobbyists to the Board of Supervisors, department heads, members of boards and commissions and registered lobbyists. The documents shall also be posted on the Web site. Each form shall be dated at the bottom.

After some discussion, the following motion was passed.

97-2-10-21 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the staff be directed to implement the proposed voluntary sign-in log sheet to the Mayor and the Board of Supervisors. Staff shall draft a covering letter explaining the concept of the voluntary sign-in log. The letter shall include a directive for the logs to be sent to the Commission at the end of every month. The covering letter shall be faxed to the commissioners for their input prior to its implementation. Instructions regarding monthly log return shall also be at the bottom of the log sheet. Staff shall report back on the response to this project in six months.

XIII. Discussion and Possible Action Re: Amending Lobbyist Ordinance to include Regulation of Lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Commission
Ms. Moll reported that the Board of Supervisors could amend the Lobbyist Ordinance to regulate persons who lobby those entities.

After some discussion, the following motion was passed:

97-2-10-22 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the City Attorney prepare language necessary to accomplish amendment of the Lobbyist Ordinance to regulate the conduct of persons who lobby the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Commission.

XIV. Agenda Items for Future Meetings
It was agreed to carry over the following agenda item: a report by the City Attorney regarding what information the public can receive as to the categorization of the types of complaints received by the Commission and their disposition. The report shall also include the specific authorities the City Attorney is relying on for the opinion regarding the information available to the public about complaints.

XV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda
Mr. Pilpel stated that the wording "discussion and possible action" on the agenda is too broad. He also asked that the wording of each specific agenda item be more detailed.

Mr. Bush requested that the city attorney-client privileged document regarding whistleblower complaints be made public. Commissioner Gee responded that if the

document can be made public, it will be available before the next Commission meeting. Commissioner Melbostad stated that he would raise this issue at the next meeting.

Mr. Bush asked to speak regarding his filed complaint prior to the Commission going into closed session. Ms. Moll responded that any additional evidence should have been submitted to the Commission staff in writing; she noted that it was not appropriate for him to speak at this time.

XVI. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session

97-2-10-23 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the Commission shall move into closed session.

The Commission went into closed session at 8:05 p.m.

XVII. Possible closed session held pursuant to Charter Section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11: Conference with Legal Counsel - Anticipated Litigation
The Commission re-commenced its open session at 8:40 p.m.

XVIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session

97-2-10-24 (Gordon-Creed/Dockendorff) Moved, Seconded and Passed: That the Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIX. Adjournment
The Commission adjourned at 8:41 p.m.

Respectfully submitted,

_____
Cheryl Reiss

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, FEBRUARY 24, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF TIME

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I. **Call To Order and Roll Call**

II. **Public Comment Re: matters appearing or not appearing on the Agenda**

III. **Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.**

IV. **Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.11: Personnel (Performance Evaluation for Executive Director)**

V. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken on discussions held in closed session.**

> **Motion: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: personnel (Performance Evaluation for Executive Director.)**

VI. **Discussion and Possible Action Re: Approval of Minutes: Meeting of February 10, 1997**

VII. **Chairperson's Report**

VIII. **Director's Report**
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

IX. **Presentation by Edwin Lee, Director of the Department of Purchasing re: effective enforcement of the Whistleblower Ordinance and the contractor contribution prohibition contained in the Campaign Finance Reform Ordinance.**

X. **Discussion and Possible Action Re: Update on budget submission for FY 1997/98**

XI. **Discussion and Possible Action Re: Status report re: approved methods of promoting compliance with lobbyist registration**

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XII. Discussion and Possible Action Re: Update on Legislative recommendations to Mayor and Board of Supervisors

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Commission.

C. Proposed ballot measure regulating campaign consultants.

D. Proposed amendments to the Campaign Finance Reform Ordinance re: disclosure of late contributions.

E. Proposed legislation authorizing the Ethics Commission to require filings to be made electronically.

F. Proposed legislation regulating slate mailer organizations.

G. Proposed amendments to the Campaign Finance Reform Ordinance § 16.510-7 re: expanding the requirements for printed disclosure on mailers to other campaign materials.

H. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

I. Proposed amendments to the Campaign Finance Reform Ordinance § 15.510-2 re: defining the term "contract."

XIII. Discussion and Possible Action Re: Public disclosure of confidential advice of City Attorney re: procedures for handling Whistleblower complaints.

XIV. Agenda items for future meetings

XV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XVI. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XVII. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 1
1 as plaintiff
0 as defendant

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XVIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIX. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

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Minutes of the San Francisco Ethics Commission Meeting 1390 Market St., Room 227 February 24, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 5:10 p.m. The following were present:

COMMISSIONERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Paul H. Melbostad, Commissioner.

STAFF PRESENT: Jane E. Rubin, Executive Director; Cheryl Bernstein Reiss, Whistleblower/Educator; Ginny Vida, Investigator/Auditor; Emily Baker, Assistant.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: John Dunbar; Jennifer Gregg, Nielsen, Merksamer; Edwin Lee, Director, Department of Purchasing; Anita Mayo, Pillsbury Madison & Sutro

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, Feb. 24, 1997
Draft Minutes of the SF Ethics Commission: Meeting of Feb. 10, 1997
Approved Minutes of the SF Ethics Commission: Meeting of Jan. 27, 1997
Executive Director's Report, Feb. 24, 1997
Ethics Commission Budget Narrative (revised)
Local Candidates and Committees (Report on Second Semiannual Filings)
Proposition 208 Fact Sheet (prepared by FPPC)

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. There was no public comment.

III. Discussion and vote pursuant to Sunshine Ordinance section 67.1(a) as to whether to conduct a closed session. The following motion was approved unanimously:

97-2-24-25 (Gordon-Creed/Dockendorff) Moved, seconded and passed: That the Commission conduct a closed session pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.11: Personnel (Performance Evaluation for Executive Director).

IV. Closed Session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.11: Personnel (Performance Evaluation for Executive Director). The Commission conducted a closed session from 5:15 to 6:00 p.m.

V. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken on discussions held in closed session. The following motion was approved unanimously:

97-2-14-26 (Gordon-Creed/Dockendorff) Moved, seconded and passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: personnel (Performance Evaluation for Executive Director).

VI. Discussion and Possible Action Re: Minutes: Meeting of February 10, 1997. The minutes of February 10, 1997 were approved as amended.

VII. Chairperson's Report. Commission Chair Virginia C. Gee called attention to items on today's agenda. It was decided to vote on conducting a second closed session at 7:30 p.m.

V. Director's Report

A. Advice and Opinions Issued.

B. Updates

C. Projects and Activities

Ms. Rubin advised that the Commission's complaint form has been posted on the web site. She noted that the current fiscal year's budget had been reduced by $1,700 re: contributions to fringe benefits. So far there has been no response from the Mayor's Office on the supplemental budget request. Ms. Rubin has asked the budget analyst to follow up.

Ms. Rubin reported that, in response to the Commission's request for reclassification of three staff positions, the Department of Human Resources has recommended upgrading each position by one level. Human Resources may conduct interviews prior to confirming the recommendation, which must then be included in the budget approved by the Mayor and the Board of Supervisors.

Ms. Rubin noted that the revised budget narrative reflects the increase in lobbyist and client fees approved at the last meeting. She said that she expects a response to the supplementary budget request within the next week or two.

IX. Presentation by Edwin Lee, Director of the Department of Purchasing re: effective enforcement of the Whistleblower Ordinance and the contractor contributions prohibitions contained in the Campaign Finance Reform Ordinance.

Edwin Lee discussed his previous experience as Whistleblower in the Mayor's Office during the administration of Art Agnos, and also offered suggestions to the Commission re: enforcement of the contractor contribution prohibition in the Campaign Finance Reform Ordinance.

Whistleblower Program. Mr. Lee stated that during his tenure as Whistleblower, hundreds of complaints were received. His role was primarily to refer these to appropriate departments and to ensure a response and closure. In a few cases, often in special circumstances at the request of a department, Mr. Lee conducted the investigation himself. His investigations were limited to cases involving wide application, i.e., systemic problems such as large patterns of government waste or misuse of government property. Cases that had been the subject of several previous investigations were not pursued. Cases involving retaliation were treated as a high priority. Most complaints were handled informally, but a formal investigation was conducted in some cases.

Mr. Lee noted the change in the Charter authorizing the Commission's jurisdiction over Whistleblower complaints. He stated that the Commission is obliged to follow the City Attorney's advice re: referral of all complaints, including Whistleblower complaints, to the City Attorney and District Attorney.

Mr. Lee advised that during his tenure as Whistleblower, the budget was approximately $50,000, which included $30,000 for half of his salary and about $20,000 for hotline and publicity expenses. He had no support staff but was assisted by staff from other departments. Mr. Lee noted that departments responded well to requests from the Mayor's Office for staff assistance. He also recruited law student interns to help prepare statistical reports. Semiannual reports were presented to the Mayor and Board of Supervisors. Recommendations were also made re: correcting practices at certain departments as a result of complaints received and pursued.

Mr. Lee advised that his communication with the press was limited to statistical information since confidentiality is required re: complaints. He stated that he prepared a brochure publicizing the program and hotline, which was widely distributed to City departments and community groups. Many calls were received.

Contractor Contribution Prohibition. In response to a question from Commissioner Melbostad, Mr. Lee stated that the Department of Human Rights has a list of upcoming contracts to be awarded and the awardees could be tapped for review of possible violations of the contractor provision. The Purchasing Department also has a list of 200 monthly term contractors that could be reviewed to identify repeat contractors. It would be difficult to obtain a list of contractors who are currently negotiating for contracts, but the Commission could check, after the fact, to see whether contracts were awarded during the negotiation process. Mr. Lee also advised that competitive bidders could be encouraged to report violators. The Commission should issue a forewarning at bid time. The bid specs should contain a warning paragraph. The Commission could also require all departments to submit a list of all those who request RFPs. He noted that the warning

is already included in the RFPs. He urged the Commission to narrow the list to those bidders who respond with a bid for the larger contracts.

Commissioner Dockendorff stated that the Commission should require all contributors to sign a statement acknowledging the contractor contribution prohibition. Commissioner Melbostad said that this requirement might necessitate a change in the ordinance. Commissioner Dockendorff stated that this change, if necessary, should be made.

Mr. Lee offered to provide the Commission with contractor lists for the Commission's review. The commissioners all thanked Mr. Lee for his excellent presentation and generous offer of assistance.

X. Update on budget submission for FY 1997/98. This item was addressed earlier in the Director's Report.

XI. Status report re: approved methods of promoting compliance with lobbyist registration. Whistleblower/Educator Cheryl Reiss reported that mailings to promote compliance with lobbyist registration are in process. Commissioner Melbostad suggested, and the Commission agreed, that a press release be issued on this project.

XII. Update on Legislative recommendations to Mayor and Board of Supervisors. Commissioner Melbostad advised that the Commission needs to determine the next step on the recommendations (Agenda Items A through I). With respect to Item C, the proposed ballot measure regulating campaign consultants, Commissioner Melbostad stated that the Commission had not yet determined to exclude the voluntary code of conduct that was part of Supervisor Ammiano's legislation. He inquired whether the measure can provide for a non-monetary penalty as well as a monetary one. He expressed concern that if some violators were willing to pay the fines, they could continue to violate the law.

Ms. Moll agreed to work with Ms. Reiss to prepare a timeline and list of staff projects associated with the proposed November ballot measure. The timeline will be available for the Commission's next meeting. Ms. Moll advised that four votes of the Commission members would be required to submit a ballot measure to the voters.

Commissioner Gee inquired as to what activity, if any, the Commission could engage in re: promotion of its own ballot measure. Deputy City Attorney Julie Moll advised that members of a department staff cannot campaign for a ballot measure on City time, but staff could prepare a neutral analysis of the impact of the measure on the City. Ms. Moll will further advise the Commission on what commissioners can and cannnot do.

It was agreed to hold over the remaining recommendations for the next agenda.

XVIII. Public Disclosure of confidential advice of City Attorney re: procedures for handling Whistleblower complaints. It was agreed to reschedule this item for the next agenda.

XIV. Agenda Items for Future Meetings. It was agreed that staff will schedule continuing items for the next meeting.

XV. Public Comment on Matters Appearing or Not Appearing on the Agenda.

In response to a question from Anita Mayo, Julie Moll confirmed that the documents prepared by the City Attorney's Office for today's agenda are client-privileged.

XVI. Discussion and vote on whether to conduct a closed session pursuant to Sunshine Ordinance section 67.11(a).

The following motion was approved unanimously:

97-2-24-27 (Dockendorff/Gordon-Creed) Moved, seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance section 67.11(a)

XVII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11. The Commission met in closed session from 7:42 p.m. to 7:52 p.m. re: Conference with Legal Counsel - Anticipated Litigation, 1 case.

XVIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussion held in closed session. The following motion was approved unanimously:

97-2-24-28 (Dockendorff/Melbostad) Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIX. Adjournment. The following motion was approved unanimously:

97-2-24-29 (Dockendorff/Melbostad) Moved, seconded and passed: That today's meeting be adjourned.
The meeting was adjourned at 7:55 p.m.

Respectfully submitted,

_____
Ginny Vida
Investigator/Auditor s:min12797.doc gv

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, MARCH 10, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

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I. Call To Order and Roll Call

II. Public Comment Re: matters appearing or not appearing on the Agenda

III. Discussion and Possible Action Re: Approval of Minutes: Meeting of February 24, 1997

IV. Chairperson's Report

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Discussion and Possible Action Re: Status report re: approved methods of promoting compliance with lobbyist registration

VII. Discussion and Possible Action Re: Update on Legislative recommendations to Mayor and Board of Supervisors

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority.

C. Proposed ballot measure regulating campaign consultants.

D. Proposed amendments to the Campaign Finance Reform Ordinance re: disclosure of late contributions.

E. Proposed legislation authorizing the Ethics Commission to require filings to be made electronically.

F. Proposed legislation regulating slate mailer organizations.

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G. Proposed amendments to the Campaign Finance Reform Ordinance § 16.510-7 re: expanding the requirements for printed disclosure on mailers to other campaign materials.

H. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

I. Proposed amendments to the Campaign Finance Reform Ordinance § 15.510-2 re: defining the term "contract."

VIII. Discussion and Possible Action Re: Public disclosure of confidential advice of City Attorney re: procedures for handling Whistleblower complaints.

IX. Agenda items for future meetings

X. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XI. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XII. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 2
2 as plaintiff
0 as defendant

XIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIV. Adjournment

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Know Your Rights Under the Sunshine Ordinance

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin. Code §16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
March 10, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 5:10 p.m. The following were present:

COMMISSIONERS PRESENT: Virginia C. Gee, Chair; Robert D. Dockendorff, Commissioner; Paul H. Melbostad, Commissioner.

COMMISSIONERS ABSENT: Geoffrey Gordon-Creed, Vice-Chair. Commissioner Gordon-Creed's absence was excused in accordance with the Commission Bylaws (amended 3/24/97).*

STAFF PRESENT: Jane E. Rubin, Executive Director; Cheryl Bernstein Reiss, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro; Jim Sutton, Nielsen, Merksamer et al

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, March 10, 1997
Draft Minutes of the SF Ethics Commission: Meeting of February 24, 1997
Approved Minutes of the SF Ethics Commission: Meeting of February 10, 1997
Executive Director's Report, March 10, 1997
Employment Opportunity: Educator/Whistleblower
Press Release, February 28, 1997
Suggested Calendar for Submission of Ballot Measure

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. There was no public comment.

III. Discussion and Possible Action Re: Approval of Minutes: Meeting of February 24, 1997.

97-3-10-30 (Gee/Dockendorff) Moved, seconded and passed: That the minutes of February 24, 1997 be approved as amended.

** Please Note: Corrections to the minutes are in italics.*

IV. Chairperson's Report.
Commission Chair Virginia C. Gee stated that a letter had been sent to Ed Lee, Director of the Department of Purchasing, thanking him for his presentation regarding his previous experience as Whistleblower.

V. Director's Report
- **A. Advice and Opinions Issued**
- **B. Updates**
- **C. Projects and Activities**

A. Advice and Opinions Issued
Executive Director Jane Rubin stated that no advice or opinions had been issued by the Commission.

B. Updates
Ms. Rubin stated that Mr. Allison has returned to work after his illness.

Ms. Rubin stated that Ms. Reiss will be resigning from the staff of the Commission April 1, 1997, in order to join her husband on a sabbatical. Ms. Rubin and the Commissioners thanked Ms. Reiss for her exceptional work and the significant contributions she had made to the Commission.

Ms. Rubin stated that the job posting has been sent to regional law and public policy schools, as well as several career resource centers. The deadline for receipt of resumes is March 21, 1997. It was agreed, upon Commissioner Melbostad's suggestion, to send the job posting to Coro Foundation, League of Women Voters and Common Cause.

C. Projects and Activities
Ms. Rubin reported that a press release was sent out detailing the Commission's efforts regarding unregistered lobbyists. She also reported that the staff has been busy with an increase in phone calls regarding the upcoming Statement of Economic Interests filing deadline. She stated that Ms. Vida was scheduled to make several presentation, including San Francisco General Hospital and the Fire Department. Commissioner Gee noted that a video presentation may serve useful in the future in order to conserve limited staff resources.

It was agreed, upon Commissioner Dockendorff's suggestion, that Commissioners receive a confidential update of the complaint log, monthly.

VI. Discussion and Possible Action Re: Status report re: approved methods of promoting compliance with lobbyist registration
Ms. Reiss stated that the Commission has received several inquiries in response to the three mailers which were sent out regarding compliance with the Lobbyist Ordinance. Inquiries have focused on the specific thresholds for becoming a lobbyist.

Ms. Vida noted that she had attended a meeting of the commission secretaries where inquiries had focused upon the voluntary nature of the request to place informational language about the Lobbyist Ordinance on other commission agendas.

It was agreed, upon Commissioner Dockendorff's suggestion, to assess in sixty days the number of commissions and boards which have voluntarily complied with the request regarding agenda language. Ms. Rubin noted that staff could make this assessment by researching at the library which collects all meeting agendas. Once such an assessment has been made, the Commission could consider asking the Board of Supervisors to pass an ordinance which would require the language on all commission and board agendas.

VII. Discussion and Possible Action Re: Update on Legislative recommendations to Mayor and Board of Supervisors

C. Proposed ballot measure regulating campaign consultants

97-3-10-31 (Dockendorff/Melbostad) Moved, seconded and passed: That the Commission adopts the Suggested Calendar for Submission of Ballot Measure.

Commissioner Gee requested staff to make the draft text of the ballot measure available to the public prior to the March 24, 1997 Commission meeting. Mr. Sutton requested a copy of the draft. Commissioner Melbostad asked that staff provide a copy of Supervisor Ammiano's draft legislation to each of the Commissioners for historical purposes and as a reference document for discussion regarding the voluntary code of conduct and penalty measures. Commissioner Dockendorff requested that the draft text be placed on the website.

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules

Commissioner Gee requested that this agenda item be carried over to the next Commission meeting. Commissioner Melbostad requested that the wording of the item make it clear that the Commission would be taking action on a motion that the proposal should go to the Board of Supervisors to amend the Lobbyist Ordinance. Commissioner Dockendorff requested that the draft text be placed on the website.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority

Commissioner Dockendorff requested that the draft text be placed on the website.

D. Proposed amendments to the Campaign Finance Reform Ordinance re: disclosure of late contributions

Commissioner Melbostad suggested that the Commission defer taking action on this item until hearing from Mr. Allison about the administrative burden this could create on staff.

Commissioner Gee requested that this agenda item be carried over to April.

E. Proposed legislation authorizing the Ethics Commission to require filings to be made electronically

Commissioner Dockendorff stated that he would like to delete the word "disk" from the electronic filing ordinance. He stated that the Commission should have filers file on-line. After some discussion, it was agreed to defer action, and to make every effort to have a representative from ISD speak at the next meeting.

F. Proposed legislation regulating slate mailer organizations

Commissioner Melbostad stated the Commission is waiting to hear from the Fair Political Practices Commission regarding its opinion on the authority of local jurisdictions to regulate slate mailer organizations. Ms. Moll agreed, upon the suggestion of Commissioner Dockendorff, to check the file number of the request. Commissioner Melbostad stated that if the Commission does not hear back from the FPPC in a month, *the Commission may want to proceed and may consider having public hearings on these proposals (amended 4/14/97).*

G. Proposed amendments to the Campaign Finance Reform Ordinance §16.510-7 re: expanding the requirements for printed disclosure on mailers to other campaign materials

Ms. Moll agreed to research whether the Commission can expand the requirement for printed disclosure via rule or regulation or whether the Board of Supervisors must make this change via ordinance.

After some discussion, it was agreed that the proposed language would be drafted and the item would be placed on the May 12, 1997 agenda.

H. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists

This item was combined with items A and B.

I. Proposed amendments to the Campaign Finance Reform Ordinance §15.510-2 re: defining the term "contract"

Ms. Moll agreed to provide advice, in advance of the March 24, 1997 meeting, on this issue.

Mr. Sutton stated that he was under the impression that the Commission would be discussing campaign finance reporting software. Commissioner Dockendorff responded that it would be helpful to have a representative from ISD to facilitate that discussion. Mr. Sutton requested that the Commission be mindful of the upcoming June election and its related deadlines when exploring the issue of electronic filing.

Commissioner Gee requested a worksheet to be developed by staff to properly track the status of all the issues raised and the recommendations (amended 3/24/97).

VIII. Discussion and Possible Action Re: Public disclosure of confidential advice of City Attorney re: procedures for handling Whistleblower complaints

97-3-10-32 (Melbostad/Dockendorff) Moved, seconded and passed: That the Commission waive the attorney-client privilege regarding the 1/4/96 letter to Ms. Rubin from Ms. Moll and Ms. Renne.

IX. Agenda items for future meetings

Commissioner Dockendorff suggested that the Commission consider holding off-site meetings in the community. Commissioner Melbostad suggested that the Commission begin considering whether to continue bi-monthly meetings and if special meetings may be appropriate to consider certain agenda items. After some discussion, it was agreed to consider these issues in an agenda item at the April 14, 1997 meeting.

X. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

Mr. Sutton expressed concerns about the complaint procedure regarding the respondent's opportunity to convey information to the Commission. Ms. Rubin stated that new regulations have been drafted. She stated that Mr. Sutton's input is helpful and encouraged him to attend the special meeting on the new regulations, should the sub-committee members deem it necessary to hold one. Commissioner Gee thanked Mr. Sutton for his comments and stated that the Commission could not discuss the issue further as it was not an agenda item. She referred Mr. Sutton to Ms. Vida for further assistance.

XI. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session

97-3-10-33 (Melbostad/Dockendorff) Moved, seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance section 67.11(a).

XII. Possible closed session held pursuant to Charter Section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11:

Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 2
2 as plaintiff
0 as defendant

The Commission met in closed session from 6:40 p.m. to 6:50 p.m.

XIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session

97-3-10-34 (Melbostad/Dockendorff) Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIV. Adjournment
The Commission adjourned at 6:52 p.m.

Respectfully submitted,

_____
Cheryl Reiss
Whistleblower/Educator

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, MARCH 24, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

PLEASE NOTE CHANGE OF TIME

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I. Call To Order and Roll Call

II. Public Comment Re: matters appearing or not appearing on the Agenda

III. Discussion and Possible Action Re: Approval of Minutes: Meeting of March 10, 1997

IV. Chairperson's Report

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Discussion and Possible Action Re: Legislative recommendations to Mayor and Board of Supervisors

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority.

C. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

D. Proposed amendments to the Campaign Finance Reform Ordinance § 15.510-2 re: defining the term "contract."

E. Proposed legislation authorizing the Ethics Commission to require filings to be made electronically.

VII. Introduction and discussion of draft language re: proposed ballot measure regulating campaign consultants.

VIII. Agenda items for future meetings

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

X. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XI. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:

Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 1
1 as plaintiff
0 as defendant

XII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIII. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

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(Approved 4/14/97)

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
March 24, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 5:05 p.m. The following were present:

COMMISSIONERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Paul H. Melbostad, Commissioner; Carl L. Williams, Commissioner.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Cheryl Bernstein Reiss, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Jennifer Gregg, Nielsen, Merksamer; Lurilla Harris; Rod Loucks, CCSF Information Services; Anita Mayo, Pillsbury Madison & Sutro; Maggie Muir, Strategy and Campaign Mngt. Group; David Pilpel; Rich Rovetti, Mayor's Office;

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, March 24, 1997
Draft Minutes of the SF Ethics Commission: Meeting of March 10, 1997
Approved Minutes of the SF Ethics Commission: Meeting of February 24, 1997
Executive Director's Report - March 24, 1997
Draft Amendments Re: Lobbyist Ordinance (dated 2/21/97)
Draft Ordinance Re: Regulation of Campaign Consultants (dated 2/13/97)
Letter to SF Ethics Commission from Lonnie Lawson, Pres., San Francisco Tomorrow

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. David Pilpel noted that the Regulations for Investigations and Enforcement have not been completed. Commissioner Paul H. Melbostad stated that this matter is a top priority. Commissioner Melbostad and Commissioner Geoffrey Gordon-Creed agreed that this matter will be placed on the agenda for a regularly scheduled meeting.

Mr. Pilpel was informed that the most recent draft of the Regulations has been made available to the public.

III. Discussion and Possible Action Re: Minutes: Meeting of March 10, 1997. The minutes of March 10, 1997 were approved after being amended to incorporate changes requested by Commission Chair Gee. Changes were approved as follows: The minutes

will reflect that Commissioner Gordon-Creed's absence from the March 10 meeting was excused; and that Commission Chair Gee requested *that a worksheet be developed by staff to properly track the status of all issues raised, the disposition and recommendations (amended 4/14/97).* Commissioner Chair Gee requested that in the future, changes in the draft minutes be identified in the approved version.

IV. Chairperson's Report

Commissioner Chair Gee introduced and welcomed Commissioner Carl L. Williams, who was recently appointed by the Mayor to serve on the Ethics Commission.

At the Chair's request, Commissioner Williams introduced himself. A long-time resident of San Francisco and a graduate of Hastings Law School, he is currently an attorney in private practice. Commissioner Williams formerly served as Executive Director of the San Francisco Housing Authority and as Executive Director of the Mayor's Office of Community Development. He also previously served as Project Area Director of the Office of Community Development in Oakland and as Chair of the California Coastal Commission.

Commission Chair Gee requested that it be reflected for the record that on behalf of the San Francisco Ethics Commission we bid farewell to Whistleblower/Educator Cheryl Bernstein Reiss and extend our deep appreciation for her positive and outstanding contribution, and we wish her well (amended 4/14/97).

V. Director's Report

A. Advice and Opinions Issued. Executive Director Jane E. Rubin reported that no advice or opinions had been issued since the last meeting.

B. Updates

C. Projects and Activities

Ms. Rubin expressed regret that Whistleblower/Educator Cheryl Bernstein Reiss, who has made an outstanding contribution to the Commission, is leaving her position. Ms. Rubin advised that a job announcement for the position has been widely distributed and that 50 resumes had been received by last Friday's deadline. Excellent candidates have been identified and Ms. Rubin is conducting interviews this week.

Ms. Rubin advised that the Executive Director's Report includes an update to the budget figures prepared in February. The Commission is on target in terms of its spending for this year. Ms. Rubin advised that the Mayor's budget office had requested additional information regarding the Commission's supplemental budget request. She noted that the request for additional information is an encouraging sign that the supplemental request is being seriously considered.

Ms. Rubin advised that the Commission is moving into a very busy month of April. Approximately 600 Statements of Economic Interest (SEIs) are due April 1, and a

quarterly lobbyist filing is due April 15. In addition, the deadline for the first pre-election filing for the June election is April 24.

Ms. Rubin advised that a new draft of the Regulations for Investigations and Enforcement, prepared by the City Attorney's Office subsequent to a subcommittee meeting, is available for review and discussion. She noted that the Commission may wish to schedule a special meeting to discuss the new draft or place it on an agenda for a regularly scheduled meeting.

In response to an inquiry from Commission Chair Gee, Ms. Rubin advised that department heads and commission secretaries had been duly notified and instructed re: filing SEIs.

Commissioner Robert D. Dockendorff requested an updated list of committees that have failed to meet filing deadlines for campaign statements. He also requested a calendar re: filing deadlines. Ms. Rubin advised that the requested calendar had previously been provided.

David Pilpel urged that despite Ms. Reiss's departure, staff prepare a quarterly lobbyist report based on the April 15 filing. Mr. Pilpel was informed that this report will be issued. Mr. Pilpel also urged that data from the first and second pre-election filings be available on the Commission's web site.

Commissioner Melbostad stated that he has found helpful an FPPC document entitled "Prop 208 Reporter." It was agreed that staff will copy and distribute this document.

VI. Discussion and Possible Action Re: Legislative Recommendations to the Mayor and the Board of Supervisors

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbyist of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority.

C. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

Commissioner Melbostad explained that agenda items VI. A, B, and C (above) are incorporated in the draft amendments to the Lobbyist Ordinance prepared by Deputy City Attorney Julie Moll. He noted that the definition of the word "contract" does not include leases. Ms. Moll advised that the Ordinance could be amended to include leases.

Commissioner Williams questioned the inclusion of the Housing Authority in the draft amendments to the Lobbyist Ordinance. He noted that the federal government is currently running the Housing Authority and there is no commission there. Commissioner Williams questioned the authority of the Ethics Commission to regulate this agency. Ms. Moll agreed to look into this matter.

Commissioner Melbostad noted that the draft amendments to the Lobbyist Ordinance are only recommendations which would be subject to the scrutiny of the Board of Supervisors.

Commissioner Gordon-Creed commented on the proposed increase in the lobbyist registration fee to $375. He noted that the Commission should carefully document the associated costs to the Commission and make sure that the fee does not exceed these costs. Executive Director Rubin advised that the staff is currently preparing more detailed information on costs involved and the basis for determining the proposed increase in fees.

Commissioner Gordon-Creed also noted that the Ethics Commission should provide evidence to support its intent to require lobbyists to disclose city contracts.

Commissioner Williams expressed concern that the increased registration fee might be construed as too great a burden and therefore a limit on first amendment rights. He suggested that the Commission hold a hearing and invite interested parties and the public to comment.

After some discussion, the following motion was approved:

97-3-24-25 (Melbostad/Dockendorff) Moved, seconded and passed: That the Commission schedule a public hearing in May on proposed amendments to the lobbyist Ordinance (re: Items VI.a, VI.b, and VI.c on today's agenda); and that the Commission schedule a vote on this proposal in June.

D. Proposed amendments to the Campaign Finance Reform Ordinance Ch. 15.510-2 re: defining the word "contract." At the Commission's request, Deputy City Attorney Julie Moll agreed to work with the staff to develop a list of all the possible transactions that could be included in a definition of the term "contract." The commissioners expressed concern that contracts involving large amounts of money may not be covered in the definition. Ms. Moll will work with Ms. Rubin and report to the Commission on April 14.

E. Proposed legislation authorizing the Ethics Commission to require filings to be made electronically. Rod Loucks of SF Information Services reported that all data from the second semiannual campaign statement filings has been converted, through a difficult process, and transferred to SDR for posting on the Commission's web site. Posting of the data will take about two weeks.

Commissioner Dockendorff stated that filers should be able to file on line rather than be required to file on disk. Rod Loucks stated that dial-in filing is doable, but not in the near term. He advised the Commission to proceed with caution in pursuing this because it poses a serious security risk; i.e., "hackers" might enter and tamper with the data. *Commissioner Dockendorff noted sharp disagreement with this statement (amended 4/14/97).*

Commissioner Dockendorff inquired about Hawaii's on line electronic filing system. Mr. Loucks advised that the cost of this system is $300,000. *Commissioner Dockendorff noted that this amount is for the entire state of Hawaii and it involves much ground-breaking work (amended 4/14/97).*

Commissioner Melbostad suggested that the Commission ask the Board of Supervisors to give the Commission the authority to require filers to file by disk or on line. He said the Commission could then decide in the future to require on-line filing.

Ms. Moll noted that the City Attorney's Office has already drafted two pieces of legislation to require electronic filing by major donors, and to authorize the Ethics Commission to require that additional materials be filed electronically.

Ms. Rubin noted that 200 candidates and committees are currently filing electronically with the Commission. All of these filings must be received by the Commission and handed over to ISD. They come in a variety of formats, including databases and spreadsheets. Removal of the $5,000 threshold would significantly increase the conversion process and vastly increase staff time and the staff work load. Ms. Rubin also noted that even if all filers were required to file electronically, it would not eliminate the need for hard copy filings, which are required for public access. (Not all members of the public have access to a computer.)

Ms. Rubin also stated that Hawaii's system requires significant funding, including full time, in-house technical staff to support the system. She said the Ethics Commission is far from that goal. She urged that the Commission focus on creating a standard filing format for on-disk filing.

Commissioner Gordon-Creed inquired as to whether the Commission can legally dispense, and require filers to use, a standard format. Ms. Moll agreed to research this issue.

Mr. Loucks noted the need to work with the ANSI (American National Standards Institute) Standards Committee to produce an interim standard for filing by disk. After some discussion, it was agreed that ISD, the Ethics Commission staff and Commissioner Dockendorff will continue to work on the development of electronic filing and the matter will be re-visited in the future.

VII. Introduction and discussion of draft language re: proposed ballot measure regulating campaign consultants. It was noted that this item has tentatively been scheduled for a public hearing on April 21, 1997, with an anticipated vote by the Commission on the final draft measure in July.

It was agreed that a public hearing will be scheduled for April 21, 1997** on the draft ballot measure proposal. (**PLEASE NOTE: THIS HEARING HAS TENTATIVELY BEEN RESCHEDULED FOR **APRIL 28, 1997** so as not to conflict with the celebration of Passover.)

Commissioner Melbostad requested that the City Attorney's Office add two provisions to the draft proposal for the hearing: a voluntary code of conduct and a penalty revoking registration. Ms. Moll advised that with these two items included, the draft legislation would be the same as the Honest Election Ordinance sponsored by Supervisor Ammiano.

Commissioner Williams questioned the Commission's consideration of this proposal. He noted that prohibiting a lobbyist from lobbying someone who owes him money may infringe on the lobbyist's first amendment rights. He expressed doubt that the legislation fills a real need, and also noted that the measure has been vetoed by the Mayor.

After some discussion, the Commission moved toward a vote on Motion No. 97-3-24-26 (below). Commissioner Williams requested to be excused from voting because of the recency of his appointment.

97-3-24-26 (Melbostad/Gordon-Creed) Moved, seconded and passed, with one abstention: That the Commission adopt, for purposes of discussion and public consideration, the legislation sponsored by Supervisor Ammiano regulating campaign consultants, which includes a voluntary code of conduct and a penalty for violation consisting of revocation of registration for a one-year period.

The following motion was then approved, with Commissioner Williams abstaining:

97-3-24-27 (Melbostad/Gordon-Creed) Moved, seconded and passed: That Commissioner Williams be excused from voting on the above motion (No. 97-3-24-26).

It was agreed that copies of the above draft legislation will be provided to the Commission members along with copies of a memorandum previously drafted by former Commissioner Brant Lee and Geoffrey Gordon-Creed re: the Honest Election Ordinance, and any comments that other Commissioners may wish to provide.

VIII. Agenda Items for Future Meetings. The Commission agreed to consider at its April 14 meeting the question of when and how often Commission meetings will be scheduled.

IX. Public Comment on Matters Appearing or Not Appearing on the Agenda.

It was requested that the draft ballot measure be made available to the public. The Commission agreed that this document will be released to the public. The Commission directed that Supervisor Ammiano's name and indication of a veto will be removed from the draft document before distribution.

X. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session. The following motion was approved unanimously:

No. 97-3-24-28 (Gordon-Creed/Melbostad) Moved, seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance 67.11 (a).

XI. Closed session held pursuant to Charter Section 54957.1 and Sunshine Ordinance section 67.14. The Commission adjourned to a closed session at 7:42 p.m.

XII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session. The following motion was approved unanimously:

No. 97-3-24-29 (Melbostad/Williams) Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

The Commission concluded its closed session at 7:47 p.m.

XIX. Adjournment. The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Ginny Vida
Investigator/Auditor

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, APRIL 14, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

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I. Call To Order and Roll Call

II. Public Comment Re: matters appearing or not appearing on the Agenda

III. Discussion and Possible Action Re: Approval of Minutes: Meeting of March 24, 1997

IV. Chairperson's Report

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Discussion and Possible Action Re: Calendar of Ethics Commission meetings for remainder of 1997.

VII. Discussion and Possible Action Re: Commission approval of proposed revisions to Enforcement Regulations, developed by committee on 12/20/96.

VIII. Agenda items for future meetings

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

X. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XI. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 2
2 as plaintiff
0 as defendant

XII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIII. Adjournment

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
April 14, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Virginia C. Gee called the meeting to order at 5:07 p.m. The following were present:

COMMISSIONERS PRESENT: Virginia C. Gee, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Paul H. Melbostad, Commissioner; Carl L. Williams, Commissioner.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury, Madison & Sutro; and two unidentified members of the public.

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, April 14, 1997
Draft Minutes of the SF Ethics Commission: Meeting of March 24, 1997
Approved Minutes of the SF Ethics Commission: Meeting of March 10, 1997
Executive Director's Report - April 14, 1997
Proposed Revisions to the Enforcement Regulations
Letter to Jane Rubin from Anita D. Stearns Mayo dated Feb. 14, 1997
re: Draft of Enforcement Regulations
Prop 208 Reporter, March 1997

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. There was no public comment.

III. Discussion and Possible Action Re: Minutes: Meeting of March 24, 1997. The draft minutes of the March 24, 1997 meeting were approved following amendments requested by Commission Chair Gee and Commissioner Robert D. Dockendorff. The minutes of March 10, 1997 were also amended and approved following an amendment requested by Commissioner Paul H. Melbostad.

No. 97-4-14-30 (Gordon-Creed/Dockendorff) Moved, seconded and passed: That the minutes of the March 10 and March 24, 1997 meetings be approved as amended.

IV. Chairperson's Report

Commission Chair Gee announced that she formally submitted her resignation on March 30 and will be leaving her position following her successor's confirmation. Commission Chair Gee stated that she truly values public service as a high calling; however, her departure is due to her demanding professional and personal priorities. She also noted that during her three years of service, she has contributed more than 1,000 hours and has absorbed significant out-of-pocket expense.

Executive Director Jane E. Rubin advised that there is a required posting period for the Chairperson's position because it is being vacated in the middle of an unexpired term. There is some indication, she said, that the Rules Committee of the Board of Supervisors will consider the matter on April 22.

Commission Chair Gee reported positive news that the Commission's supplemental budget request of $18,270 for the current fiscal year has been approved by the Mayor's Budget Office.

V. Director's Report

A. Advice and Opinions Issued.

B. Updates

C. Projects and Activities

Ms. Rubin introduced and welcomed Naomi Starkman, recently hired from a pool of more than 50 applicants to serve as the Commission's Whistleblower/Educator. Ms. Starkman, a graduate of Santa Clara Law School, stated that she is honored to serve in this position.

Ms. Rubin advised that the Commission is on target in terms of its spending for this year. She noted that the recently approved supplementary budget will be reviewed by the Finance Committee of the Board of Supervisors, probably on April 23. She said that fringe benefits in the supplementary budget had been reduced but that the number of staff hours provided for will remain the same. Ms. Rubin indicated that the Commission has been informed that it may proceed with implementation of the supplemental budget.

Commissioner Melbostad requested that Ms. Rubin notify commissioners if their advocacy for the supplemental budget is needed.

Ms. Rubin advised that nearly 500 Statements of Economic Interest (SEIs), due on April 1, have been filed with the Commission. These still must be reviewed and filers notified of amendments required. There have already been several inquiries by the press and members of the public, who have been visiting the office to review the files. Ms.

Rubin noted that a quarterly lobbyist filing is due April 15. In addition, April 24 is the deadline for the first pre-election filing for the June election.

In response to an inquiry by Commissioner Dockendorff, Ms. Rubin confirmed that late fees will be imposed of filers of late SEIs. Investigator/Auditor Ginny Vida noted, however, that under FPPC guidelines, filing officers have considerable latitude in waiving or reducing fees.

VI. Discussion and Possible Action Re: Calendar of Ethics Commission meetings for the remainder of 1997.

Ms. Rubin advised that she had tentatively re-scheduled for April 28 the discussion on the proposed ballot measure regulating campaign consultants, when it was learned that Passover is observed on April 21, the date originally scheduled. The commissioners agreed that April 28 can be confirmed for this discussion. After further discussion re: scheduling meetings for 1997, the following motion was approved unanimously:

No. 97-4-14-31 (Dockendorff/Melbostad) Moved, seconded and passed: That the Commission schedule one regular meeting per month on the second Monday at 5:00 p.m., and that special meetings be scheduled as needed, with the time to be determined.

Commissioner Melbostad requested that a notice of the Commission's public hearings be sent to the Independent City Hall Calendar. Ms. Rubin confirmed that this information will be transmitted in the future.

VII. Discussion and Possible Action Re: Commission approval of proposed revisions to the Enforcement Regulations, developed by committee on 12/20/96.

Commissioner Melbostad commended the City Attorney's Office for its work on the proposed revisions to the Enforcement Regulations.

Commissioner Geoffrey Gordon-Creed noted that Anita Mayo's comments on the draft revisions had been sent to members of the Commission prior to today's discussion.

Commissioner Melbostad conveyed a suggestion from David Pilpel, who was unable to attend today's meeting, that the Regulations make more clear when the complainant and respondent are notified re: the status of a complaint.

After some discussion, it was agreed to amend the proposed revisions as follows:

p. 1, I (Preamble). Clarify in the definitions section that the word "City" refers to City and County of San Francisco.

p. 3, II (M). Definitions. Clarify that the term "personal service" refers to delivery by messenger only when there is a short deadline for delivery. Otherwise, first class mail will be used with proof of service. E-mail and faxes will be excluded.

p. 7, IV (C). Clarify the word "immediately" to mean that when a complaint is received which may allege a violation of law, it will be forwarded to the City Attorney and the District Attorney by the next business day.

p. 8, V (B) re: preliminary inquiry. Clarify that the Executive Director will be permitted to interview the respondent or respondent's representative if such persons voluntarily agree to be interviewed.

p. 9, V (E). Specify that both the complainant and respondent will be notified within 14 working days. (The words "and respondent(s)" will be added after "complainant.")

p. 12, VI (C). Clarify that "...the Executive Director may consider as evidence statements containing hearsay...."

p. 13, VII (A). Increase the time period for delivery of the probable cause report from 7 to 10 days.

p. 14, VIII (A) (1). Define a page (in the definition section) as one-sided, double-spaced.

p. 14 VIII (A) (2); p. 15 VIII (B) (Rebuttal); p. 21 XI (B)(4). Clarify in these sections, and specify in the miscellaneous provisions section, that whenever service or delivery is required, the service or delivery is to be made at the Commission office, and staff will be responsible for conveying documents addressed to the Commission members.

p. 17, IX (B). Provide for a 45-day time frame in which the probable cause determination will be made (replaces 21-day time frame in Draft #3).

p. 20, XI (B) (1). Deputy City Attorney Julie Moll agreed to correct the section reference, to section IX, subsection C(2).

p. 21, XI (B) (4) (last sentence). Provide for an equal page limit --15 pages for the respondent and 15 for the Executive Director. ("Unless otherwise permitted...the opposition shall not exceed 15 pages excluding attachments.")

p. 27, XII (B). Provide for a 45-day time frame for the hearing on the merits.

p. 30, XIII (A). Ex Parte Communications. Distinguish between communication with the parties and communication with members of the public; i.e., the confidentiality provision of the Charter forbids discussion of a complaint under any circumstances with persons other than the parties.

The following motion was approved unanimously:

No. 97-4-14-97 (Melbostad/Gee) Moved, seconded and passed: That the Enforcement Regulations be adopted as amended, subject to review of amendments by Commissioner Gordon-Creed and Commissioner Melbostad; that a revised draft be sent to the Commission members; and that within 2-3 days the document be forwarded to the Board of Supervisors. All comments on the final draft will be part of the public record.

Anita Mayo stated that she would like the opportunity to comment on the final draft to be prepared by Deputy City Attorney Julie Moll. It was agreed that a copy of this document would be made available to Ms. Mayo. However, it was clarified that the document will be a final, approved draft.

VIII. Agenda Items for Future Meetings. No items were scheduled.

IX. Public Comment on Matters Appearing or Not Appearing on the Agenda.

There was no public comment.

X. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session. The following motion was approved unanimously:

No. 97-4-14-32 (Melbostad/Gordon-Creed) Moved, seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance 67.11 (a).

XI. Closed session held pursuant to Charter Section 54957.1 and Sunshine Ordinance section 67.14. The Commission adjourned for a break at 7:25 p.m. The Commission reconvened and adjourned into closed session at 7:30 p.m. The closed session was concluded at 7:37 p.m.

XII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session. The following motion was approved unanimously:

No. 97-4-14-33 (Gordon-Creed/Dockendorff) Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIX. Adjournment. The meeting was adjourned at 7:38 p.m.

Respectfully submitted,

_____
Ginny Vida
Investigator/Auditor

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION
AGENDA

AND NOTICE OF *SPECIAL MEETING*
MONDAY, APRIL 28, 1997, 5:00 P.M.
WAR MEMORIAL BUILDING
401 VAN NESS AVENUE
ROOM 207
SAN FRANCISCO

Please note change of location, for this meeting only.

I. **Call To Order and Roll Call**

II. **Public Comment Re: Matters appearing or not appearing on the agenda**

III. **Discussion and Possible Action Re: Proposed ballot measure regulating campaign consultants**

IV. **Agenda items for next meeting**

V. **Public Comment Re: Matters appearing or not appearing on the agenda**

VI. **Adjournment**

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin. Code §16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/

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(Approved 6/9/97)

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Minutes of the
San Francisco Ethics Commission Special Meeting
401 Van Ness Avenue, Room 206
April 28, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Vice-Chair Geoffrey Gordon-Creed called the meeting to order at 5:05 p.m. The following were present:

COMMISSIONERS PRESENT: Geoffrey Gordon-Creed, Vice-Chair, Commissioner; Paul H. Melbostad, Commissioner; Carl L. Williams, Commissioner.
Commissioner Robert D. Dockendorff was not present.
Chair Virginia C. Gee joined the meeting in progress.

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Betty Traynor, San Francisco Green Party and Electoral Reform Coalition; Barbara Blong, San Francisco Green Party and Electoral, Anita Mayo, Pillsbury Madison & Sutro; Gwenn Craig, LGADDA; Esther Marks; Ina Dearman; Michael Kent; Daniel Zoll, Bay Guardian; Jerry Windley; Angela Alioto; Mike Housh, Supervisor Tom Ammiano's Office; Susan Stephenson; Local Campaign Manager for Proposition 208, Bob Gee; Jim Sutton; Jeff Sheehy, President, Harvey Milk Club.

MATERIALS DISTRIBUTED:
Regulation of Campaign Consultants, by Deputy City Attorney Julie Moll
Proposed Ballot Measure regulating Campaign Consultants
pursuant to Prop. 208/Updated Honest Election Ordinance by Supervisor Tom Ammiano
Press release issued by Supervisor Tom Ammiano, dated 4/18/97, with letter from FPPC
Letter to Ethics Commission from Tony Kilroy, dated 4/28/97
Letter to Ethics Commission from Lonnie Lawson, President, San Francisco Tomorrow, dated 4/28/97

II. Public Comment Re: Matters appearing or not appearing on the agenda.

There was no public comment.

III. Discussion and Possible Actions Re: Proposed ballot measure regulating campaign consultants

Commissioner Melbostad introduced the meeting by discussing the current situation. He indicated that there has been recent, significant development regarding the regulation of

campaign consultants. Supervisor Tom Ammiano recently requested advice from the FPPC. The FPPC issued an opinion pursuant to this request. Thereafter, Ammiano drafted new legislation in light of the FPPC opinion. Copies of the proposed legislation were previously distributed to the Ethics Commission Commissioners.

Commissioner Melbostad asked the City Attorney to report on the FPPC opinion. Commissioner Gordon-Creed sought to clarify the purpose of the special meeting hearing. He noted that the purpose of the meeting was to discuss the ballot measure.

Commissioner Melbostad indicated that the meeting was called to hear public comment on proposed language for a possible ballot measure and that no vote was scheduled for this evening's meeting. He mentioned that he was interested in having public input now. He expressed that he hoped that everyone could come to an agreement on this matter.

Deputy City Attorney Julie Moll discussed Proposition 208's effect and reported that Prop. 208 prohibits lobbyists from making, soliciting or arranging for campaign contributions. The FPPC recently advised that Prop. 208 bars a candidate from hiring a registered lobbyist to provide fundraising services. The proposed ballot measure would require campaign consultants to disclose extensions of credit negotiated on behalf of their clients. Ms. Moll explained that under Prop. 208, an extension of credit lasting more than 30 days is treated as a contribution. For this reason, when a campaign consultant is also lobbyist, the campaign consultant/lobbyist can't arrange extensions of credit which last for more than 30 days. She noted that the disclosure requirement concerning extensions of credit may be unnecessary under Prop. 208 to the extent that it applies to campaign consultants who are also lobbyists. However, this requirement could still apply to campaign consultants who are not lobbyists.

Public Comment

Discussion of Draft 97-96-13, amended by the Board of Supervisors on October 15, 1996.

Susan Stephenson, Local Campaign Manager for Proposition 208, said that she has reviewed the proposed ballot measure and expressed support for the proposed ballot measure. She stated that there is a public perception that lobbyists have undue influence over public officials.

Commissioner Carl Williams asked Ms. Stephenson if she would cite specific instances of undue influence. He asked Ms. Stephenson what specific harm would be corrected by this legislation? He noted that to survive a court challenge, the government must show a compelling governmental interest that demonstrates that there is public harm which must indeed be corrected.

Ms. Stephenson noted that the harm is in having the public lose its confidence in the integrity of the government. She declined to give specific examples of undue influence, but stated that there have been cases where lobbyists have influenced officials.

Commissioner Gordon-Creed noted that any legislation regulation political consultants would likely be challenged in court. He expressed his opinion for this legislation to pass court scrutiny, there must be facts that support a compelling government interest in enacting the legislation.

Philip Babcock, local political activist, noted that officials give lobbyists more weight than they should. He cited the November election and the taxi cab measure, which he said was written by lobbyists and put on the ballot by lobbyists. He stated that the measure was defeated because the public did not want it and that it was only placed on the ballot because lobbyists influenced public officials.

Commissioner Melbostad noted that the same campaign consultants who worked on that taxi cab issue, drafted the legislation for that ballot measure.

Gwenn Craig, former Member of the Police Commission, stated that she supported Ammiano's legislation revisions. Based on her own experience, she could see why the legislation is needed and felt that it would bring city politics in line with Proposition 208. Ms. Craig indicated that the legislation is "right-to-know" legislation. She also cited Mayor Brown's comments to the Examiner after the election regarding strengthening the ethics laws.

Former Supervisor Angela Alioto said the differences between who is a lobbyist and who is a campaign consultant needs to be clarified. She felt that there is a clear conflict of interest when someone who elects you comes to lobby you after you've been elected. Former Supervisor Angela Alioto cited example of this situation of Jack Davis, Mayor Brown's campaign consultant, who lobbied Brown on bringing Home Depot to the City.

Commissioner Williams posed the following hypothetical to Ms. Alioto: A campaign consultant works for a candidate who gets elected to the Board of Supervisors. Six months later, that consultant is hired by the NAACP to lobby the candidate to make changes in the City's Affirmative Action Program to avoid the impact of Proposition of 209. Commissioner Williams asked Ms. Alioto whether this would be the type of harm to be prohibited by the proposed policy.

Ms. Alioto stated that, in her opinion, corruption is corruption, regardless of what type of corruption it is. If a particular consultant is being paid by the NAACP to do that job and the elected official is coerced into voting a particular way that he wouldn't have voted, but for that relationship, then it is wrong.

Commissioner Williams asked Ms. Alioto how one determines whether that supervisor would have voted for that legislation, but for that relationship. Ms. Alioto stated that her point was that the supervisor should not be allowed to vote on a matter at all.

Mike Housh, Supervisor Ammiano's Office, reported that Tom Ammiano could not attend the meeting because he was still at a Board of Supervisor's Meeting. Mr. Housh congratulated the Ethics Commission on the hard work they have done regarding this matter. He stated that there were two issues he wanted to discuss. First, he stated that the FPPC has responded to Supervisor Ammiano's inquiry and identified the state law issues affecting local legislation. A majority of provisions of Supervisor Ammiano's original Honest Election Ordinance are now in state law, according to the advice received from the FPPC. Mr. Housh stated that campaign consultants should meet the same standards that are required of lobbyists, regarding reporting and disclosure. Mr. Housh stated that Supervisor Ammiano would like to move the legislation through the Ethics Commission to the ballot or through the Board of Supervisors. Mr. Housh said it would be helpful if the Ethics Commission would reiterate its support for the Honest Election Ordinance. If the legislation is not approved by the Board of Supervisors, Mr. Housh urged the Ethics Commission to put it on the ballot.

Commissioner Gordon-Creed asked Mr. Housh whether Supervisor Ammiano wished to proceed forward with this legislation through the Board of Supervisors or through a ballot measure put forward by the Ethics Commission. Commissioner Gordon-Creed noted that the language of the proposed ballot measure differed substantially from the most recent legislation proposed by Supervisor Ammiano.

Mr. Housh noted that the revised legislation does not reflect the FPPC advice. He said that significant changes still need to be made and that registration and reporting are key provisions that should be looked into. Mr. Housh said there is a value in itself for the Ethics Commission to make a recommendation and placing it on the ballot because the Commission can look at the situation objectively.

Commissioner Melbostad noted that there is a timeline by which the Commission was planning to take a vote on the ballot measure, namely on July 14 to meet the August 6 deadline for submission of the ballot measure.

Mr. Housh indicated that Supervisor Ammiano would know the status of the legislation within a month, by the end of May. The full language of the revised Honest Election Ordinance will go to the Board of Supervisors by May 15.

Jim Sutton, Attorney representing the American Association of Political Consultants, opposed the proposed legislation and stressed concern for the First Amendment Right to Free Speech, which includes the right to lobby or petition the government. He suggested that the Ethics Commission could solve the problem of regulating campaign consultants by adding the two following questions to already existing lobbyist registration forms: 1. Are you under contract with any campaign to provide campaign services? 2. Do you work for the City of San Francisco? Mr. Sutton noted that these questions are on the lobbyists form for the City of Los Angeles. He also stated that the American Association of Political Consultants opposes creating another whole filing for campaign consultants and believes such a requirement is too burdensome and unnecessary. Mr. Sutton

recommended that the Ethics Commission ask the City Attorney for a full constitutional analysis of the proposed legislation so that it would it not get caught up in court.

Commission Chair Gee noted that the current legislation requiring registration of lobbyists does not apparently raise constitutional issues.

Mr. Sutton responded that the reporting, by itself, does not raise constitutional issues. He objected to requiring campaign consultants to file. He noted that campaign consultants and their clients are private parties which have a private relationship.

Commissioner Williams asked Mr. Sutton how one would demonstrate a compelling government interest for this proposed legislation.

Mr. Sutton responded that one would have to set forth specific examples of undue influence of campaign consultants over elected officials over a course of years.

Commissioner Williams asked Mr. Sutton how one determines whether a supervisor has switched his or her vote because of undue influence.

Mr. Sutton replied that it would be difficult to demonstrate this.

Jerry Windley, Aide to Former Supervisor Angela Alioto, stated that a contract was awarded to Motorola because of lobbying by campaign consultants. But, he said, a federal judge threw out the contract because it was not competitive. He said that paid consultants have easy access to public officials and more influence than community groups.

John Dunbar asked for the proposed legislation to be put on the ballot.

Jeff Sheehy, President of Harvey Milk Club, stated that community groups rarely have the power to use undue influence. In his opinion, campaign consultants and lobbyists have much greater influence. He stated that lobbyists should not lobby while a campaign is in progress and not when the candidate owes money to the official.

A Member of the Public stated that the Ethics Commission should eliminate the provision that lobbyists can't lobby office holders if there is an existing debt. She felt that it made no difference whether money is owed because there is undue influence either way.

Mr. Sutton stated that supervisors should not vote on a given matter if there is a conflict of interest with a campaign consultant. He expressed that the legislation should not state that supervisors could not hire a campaign consultant who is also a lobbyist.

Public comment closed at 6:40 p.m.

Commissioner Melbostad noted that Supervisor Leal could not attend the meeting because she was in a Board Meeting but that she supports the legislation as she amended it, including registration and reporting requirements. Rather than prohibiting the consultant from lobbying, it required the supervisors to recuse themselves from voting on matter if their consultant was doing lobbying. Commissioner Melbostad noted that this is the legislation that the mayor said he would support and sign into law. He also contacted former Supervisor Shelley, who was the sponsor of the legislation of the ballot measure establishing the Ethics Commission. Former Supervisor Shelley wrote the ballot arguments in favor of the creation of the Ethics Commission.

Commissioner Melbostad noted that another purpose of this meeting was to educate the Commission and the public. Commissioner Melbostad also noted that the Ethics Commission has the power, by a four-fifths vote, to submit proposed ethics ordinances to the voters in a ballot measure. He stated that he hopes the Mayor and the Board of Supervisors will come to agreement on the regulation of campaign consultants, if they do not, he hopes the Ethics Commission will make a decision to put the measure on the ballot.

IV. Agenda Items for Next Meeting

The Ethics Commission will discuss Supervisor Ammiano's new ordinance if it is available by the next Ethics Commission meeting.

Commissioner Gordon-Creed stated that the issue before the Commission is whether the Commission will proceed forward with a ballot measure that sets forth some as yet undetermined language that regulates campaign consultants. The Commission needs to decide whether it wants to put something on the ballot. Before the Commission puts something on the ballot, the Commission will have to decide whether it makes sense to put a ballot measure forward given the new legislation offered by Supervisor Ammiano. The Commission also needs to decide what exactly it would place on the ballot; the language of any proposed ballot measure needs to be agreed on by the Commission. In addition, the Commission and Commission staff must address the actual affect of this type of legislation on the Commission.

Executive Director Jane Rubin recommended putting the item regarding the regulation of campaign consultants on the agenda for the next meeting. Any updates from Supervisor Ammiano's office or other sources will be provided.

There were no other agenda items.

V. Public Comment Re: Matters appearing or nor appearing on the agenda

There was no public comment.

VI. Adjournment

The meeting was adjourned at 6:45 p.m.

Respectfully submitted,

Naomi Starkman
Whistleblower/Educator

(Approved 8/11/97)

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
May 12, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Vice-Chair Geoffrey Gordon-Creed called the meeting to order at 5:10 p.m. He noted that Commission Chair Virginia C. Gee was out of town on a business trip.

COMMISSIONERS PRESENT: Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Paul H. Melbostad, Commissioner; Carl L. Williams, Commissioner.

COMMISSIONERS ABSENT: Virginia C. Gee, Commission Chair (Excused)

STAFF PRESENT: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury, Madison & Sutro; and two unidentified members of the public.

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, May 12, 1997
Draft Minutes of the SF Ethics Commission: Meeting of April 14, 1997
Draft Minutes of the SF Ethics Commission: Meeting of April 28, 1997
Executive Director's Report - May 12, 1997
Report on Annual Costs of Lobbyist Filing
Draft Legislation re: Regulation of Lobbyists

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda. Anita Mayo asked for clarification re: the Commission's letter of May 5, 1995, re: the requirement that all lobbyists must file every form regardless of whether there is activity to report.

Executive Director Jane E. Rubin confirmed the necessity of filing all forms, *but she also advised that, alternatively,* the code "NA" may be recorded on the cover sheet to indicate that there is no activity to disclose. She advised that no new instructions are needed.

III. Discussion and Possible Action Re: Minutes: Meeting of April 14 and April 28, 1997.

The following motion was approved unanimously:

No. 97-5-12-34 (Gordon-Creed/Dockendorff) Moved, seconded and passed: That the minutes of the April 14 meeting be approved as submitted.

Commissioner Carl L. Williams requested that a comment attributed to him in the April 28 minutes be edited to reflect the context in which it was made. Commissioner Paul H. Melbostad asked that Susan Stevenson be identified in the April 28 minutes as local campaign manager for Prop 208. It was agreed that the April 28 minutes will be corrected as requested and placed on the June 9 agenda for review and approval.

IV. Chairperson's Report

There was no Chairperson's Report due to the absence of the Commission Chair, Virginia C. Gee.

V. Director's Report

- **A. Advice and Opinions Issued.**
- **B. Updates**
- **C. Projects and Activities**

Executive Director Jane E. Rubin reported that the April 24 campaign finance filing data have been posted on the Commission's web site. She also reported that she and Shawn Allison had attended a meeting with ISD, and a meeting with ISD and SDR, which has entered into an agreement with the State to develop a standard filing format. The Ethics Commission will also need to work cooperatively with the State on this project. Sheryl White of Statecraft has informed the Commission that she will also be working with the State. The Los Angeles Commission has also expressed interest in being involved.

Ms. Rubin advised that the Commission's Supplemental Budget has been approved by the Finance Committee of the Board of Supervisors, and has been referred to the full Board for approval.

Ms. Rubin also reported that the Regulations for Investigations and Enforcement Proceedings, adopted by the Commission on April 14, have been forwarded to the Board of Supervisors. They will automatically take effect in 60 days if the Board takes no action.

Commissioner Robert D. Dockendorff noted that the Los Angeles Commission has a $2.2 million budget, with 16 full time employees. He emphasized that the San Francisco Ethics Commission should have a larger annual budget. Commissioner Paul H.

Melbostad noted that the legislation creating the San Francisco Ethics Commission was modeled on that of the Los Angeles Commission.

Commissioner Melbostad inquired as to whether all 1996 pre-election filings have been posted on the Commission's web site. Ms. Rubin advised that ISD is trying to complete this project by June. All filings must first be converted prior to posting. Ms. Rubin noted that the Commission is focusing on the current June election, with the second pre-election filing due May 22 and the second semiannual filing due July 31.

Commissioner Melbostad suggested that the Commission conduct a workshop for filers on electronic filing. Ms. Rubin suggested that the appropriate time to do this is prior to mandating the format. Shawn Allison suggested that July or August would be the time to conduct the workshop. The mandating of a standard format must occur at least 60 days prior to an election.

Commissioner Gordon-Creed inquired as to whether the Commission maintains a Whistleblower Hotline. Ms. Rubin responded that all complaints are treated as the Charter requires, and that the Commission's telephone number is listed on the web site along with the complaint form. She advised that there is no special line for Whistleblower complaints.

Commissioner Melbostad stated that the Commission should have a dedicated Whistleblower Hotline. He asked that this matter be included on the agenda for the June 9 meeting.

VI. Discussion and Possible Action Re: Legislative recommendations to the Mayor and Board of Supervisors.

Commissioner Gordon-Creed noted that items A - C (below) are incorporated in one piece of legislation--the draft amendments to the Lobbyist Ordinance.

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority.

C. Proposed amendments to the Lobbyist Ordinance Re: Disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

(Items A-C Lobbyist Ordinance Amendments)

Commissioner Melbostad stated that the fee increases are appropriate, based on the staff report. He also stated that the draft amendments to the Lobbyist Ordinance accurately reflect what was proposed, but urged that the definition of the term "contract" be broadened to include leases as follows: "Whether by purchase or lease...sale of land or lease...or the financing of any of same."

Ms. Rubin suggested that the phrase "to or from" the city should be included, to apply to situations in which the city may be seeking to dispose of land or buildings.

Commissione Melbostad proposed that the Commission require that lobbyists report contracts with, and payments to *and from*, city officers and members of boards and commissions. He asked the staff to research and report on what contracts are currently in effect, and payments provided for, between lobbyists and city officials. He emphasized that if a city officer has a contract with a lobbyist, it should be disclosed. The Commission could determine whether there is a connection re: improper influence, such as a quid pro quo arrangement. Commissioner Melbostad stated that a city official might employ, for personal services, the same attorney who is ~~providing services to the board on which the official serves~~ *lobbying the Board.*

Ms. Rubin noted that the information would be difficult if not impossible to obtain on a voluntary basis.

Commissioner Dockendorff stated that the Commission should require city officials to disclose 1) contracts for campaign services, and 2) contracts regarding the officials' private business. For example, there might be a conflict of interest if a member of a board, or a city officer, has a contract with a business organization that is lobbying the board on which the officer serves.

Ms. Moll noted that this issue is covered in the ballot measure regulating campaign consultants.

Commissioner Melbostad stated that the Commission should nonetheless recommend a change in the Lobbyist Ordinance, even if the same provision is included in the campaign consultant measure, because there could be undue influence affecting how an official votes on an issue before the board on which he or she serves.

Ms. Moll stated that the campaign consultant provision is narrower than the provision Commissioner Melbostad is advocating.

It was decided that Commissioner Melbostad will discuss the above matter with the City Attorney's Office and then request staff assistance, if necessary.

Commissioner Williams inquired about a hypothetical situation involving a law firm lobbyist and a member of the Airport Commission who have a personal attorney-client relationship with the same law firm. Commissioner Melbostad responded that if there is a large contract with a lobbyist with financial implications that could make or break the public officer's business, then the Commission should require disclosure. But disclosure might not be necessary if the contract is for personal legal business.

Commissioner Williams raised the issue of attorney-client privilege. He stated that the Ethics Commission cannot impose a requirement that a law firm deviate from that privileged relationship. He stated that if the matter is independent of the business that is before the board, the City should not interfere. After some discussion, Ms. Moll agreed to draft language that explicitly excludes disclosure of payments/contracts that are attorney-client privileged.

Commissioner Melbostad responded that if the law firm is lobbying the board and one of the members has a large contract with the firm, the welcome mat might be out when the firm comes to lobby for its other clients.

Commissioner Williams stated that this level of required disclosure might have a negative impact in that it would discourage people from volunteering to serve on City boards and commissions.

A threshold for disclosure was discussed. Commissioner Melbostad recommended an amount between $10,000 and $25,000 as a threshold. Commissioner Gordon-Creed recommended disclosure of any amount over $10,000 with an exclusion if the contract is attorney-client privileged.

It was agreed that Commissioner Melbostad will discuss appropriate language with the City Attorney's Office.

Commissioner Williams inquired as to whether Item B of the proposed legislation applies to the temporary team in place at the Housing Authority. Ms. Moll advised that it does not apply. She said that a new board is expected to be appointed soon. She noted that the legislation could clarify that it does not apply to the federal emergency team. However, the Commission agreed that this addition would not be necessary.

Ms. Rubin noted that an issue has surfaced regarding a lobbyist who has an employee who serves on a city board. Under current law, the lobbyist is required to disclose that employee's salary. However, the employee is objecting on privacy grounds. Ms. Rubin suggested that a change be made to allow filers to report in categories of salaries instead of disclosing the specific amount of an employee's salary. Such categories would be consistent with the requirements for salary disclosure on the Statement of Economic Interests form.

Commissioner Gordon-Creed requested that staff prepare a revised list of recommendations for changes in the Lobbyist Ordinance. He noted that the changes previously approved in the lobbying forms should now be reflected in the Lobbyist Ordinance. It was agreed that Deputy City Attorney Julie Moll will work with Commission staff to prepare the revised language.

(Item D. CFRO Amendments re: defining the term "contract")

Commissioner Melbostad proposed that the CFRO be amended to include the same amendments that he had offered re: the Lobbyist Ordinance. After some discussion, it was concluded that because the voters adopted the CFRO, the Board has no authority to make this change.

Commissioner Melbostad stated that BART has a system of tracking contracts above $100,000. Bidders are prohibited from contributing to the officer until the contract is awarded. After the contract is awarded, the winning bidder may *not* contribute to the officer's campaign ~~three months after receiving the contract~~ *during the three months subsequent to receiving the contract*. Those not awarded the contract may contribute immediately after the award. Commissioner Melbostad said he would forward a copy of BART's financial contribution restrictions to the Commission office.

Ms. Rubin stated that the Ordinance should clarify what the negotiation period is. Ms. Moll advised that although the CFRO was adopted by the voters, the Commission can define the term "negotiation period" by rule or regulation. Investigator/Auditor Ginny Vida stated that the notice sent by the Commission to department heads and officers contained a definition of the negotiation period. Ms. Moll offered to work with staff on a definition.

It was agreed that an item entitled "Proposed rules and regulations clarifying the Campaign Finance Reform Ordinance" will be included on the agenda for a future meeting.

VII. Update and Possible Discussion:

A. Draft legislation proposed by Supervisor Ammiano re: regulating campaign consultants.
B. Proposed ballot measure re: regulating campaign consultants.

Ms. Rubin advised that she has received no further information on proposed legislation to regulate campaign consultants. Commissioner Dockendorff advised that the legislation will be heard sometime soon in committee.

VIII. Agenda Items for future meetings.

Commissioner Melbostad requested that a discussion of the Whistleblower Hotline be included on the agenda for the June 9 meeting. He also asked that the Commission discuss what authority the Commission might have that falls outside the parameters of state law, in light of the FPPC's advice on regulation of slate mailers. Commissioner Gordon-Creed asked that staff provide information to the Commission members prior to the next meeting.

IX. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

There was no public comment.

Commissioner Melbostad suggested that the title of this regular item, "Public Comment Re: Matters Appearing or Not Appearing on the Agenda," should be revised to clarify that any matter may be addressed. Commissioner Gordon-Creed stated that this title includes all matters for discussion.

X. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session.

There being no Commission business requiring a closed session, the discussion and vote on whether to discuss a closed session was not held.

XI. Possible closed session held pursuant to Charter Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

Not applicable.

XIII. Adjournment.

The following motion was approved unanimously:

97-5-12-35 (Melbostad/Dockendorff) Moved, seconded and passed: That the meeting of May 12, 1997 be adjourned.

Respectfully submitted,

Ginny Vida

Ginny Vida,
Investigator/Auditor

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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AND NOTICE OF MEETING FOR MONDAY, JUNE 9, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

I. Call To Order and Roll Call

II. Public Comment Re: matters appearing or not appearing on the Agenda

III. Discussion and Possible Action Re: Approval of Minutes: Meetings of April 28 and May 12, 1997.

IV. Chairperson's Report (G. Gordon-Creed, Acting Chairperson)

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI. Nominations and Election of Chairperson and Vice-Chairperson for one year terms commencing July 1997

VII. Discussion and Possible Action Re: Legislative recommendations to Mayor and Board of Supervisors

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority.

C. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

VIII. Update and possible discussion:

A. Draft legislation proposed by Supervisor Ammiano re: regulating campaign consultants.

B. Proposed ballot measure re: regulating campaign consultants.

IX. Discussion and Possible Action Re: Whistleblower Hotline.

X. Discussion and Possible Action Re: Local regulation of Slate Mailer Committees.

XI. Agenda items for future meetings.

XII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda

XIII. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session.

XIV. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 2
2 as plaintiff
0 as defendant

XV. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVI. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the SF Admin. Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, JUNE 9, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

AMENDED

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I. Call To Order and Roll Call

II. Public Comment Re: matters appearing or not appearing on the Agenda

III. Discussion and Possible Action Re: Approval of Minutes: Meetings of April 28 and May 12, 1997.

IV. Chairperson's Report (G. Gordon-Creed, Acting Chairperson)

V. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VI.* Discussion and Possible Action Re: Proposed Budget for FY 1997-1998

VII. Nominations and Election of Chairperson and Vice-Chairperson for one year terms commencing July 1997

VIII. Discussion and Possible Action Re: Legislative recommendations to Mayor and Board of Supervisors

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

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C. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

*D. Proposed amendments to the Lobbyist Ordinance re: providing ranges of payment amounts for the reporting of salary payments to employees who are also City officers.

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XV. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11:
Conference with Legal Counsel - Anticipated Litigation
Number of possible cases: 2
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XVI. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVII. Adjournment

* Amended items

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Approved 7/14/97

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Minutes of the
San Francisco Ethics Commission
1390 Market St., Room 227
June 9, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Acting Chair Geoffrey Gordon-Creed called the meeting to order at 5:10 p.m. The following were present:

COMMISSIONERS: Geoffrey Gordon-Creed, Acting Chair; Robert D. Dockendorff, Commissioner; Isabella H. Grant, Commissioner; Paul H. Melbostad, Commissioner; Carl L. Williams, Commissioner.

STAFF: Jane E. Rubin, Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator; Ginny Vida, Investigator/Auditor.

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS: Saviltra Sridharan, Summer Associate, Pillsbury Madison & Sutro; Rick Raguse, Summer Associate, Pillsbury Madison & Sutro; Anita Mayo, Pillsbury Madison & Sutro; Mark Mosher, Committee on Jobs; Peggy Brown, Pacific Telesis Group; Steve Coulter, Pacific Bell, Library Commission; Janis Coum, Nielsen, Merksamer; Jim Sutton, Nielsen, Merksamer; David Pilpel.

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, June 9, 1997
Approved Minutes of the SF Ethics Commission: Meeting of April 14, 1997
Draft Minutes of the SF Ethics Commission: Meeting of April 28, 1997
Draft Minutes of the SF Ethics Commission: Meeting of May 12, 1997
Executive Director's Report - June 9, 1997
Draft Amendments Re: Lobbyist Ordinance (dated 6/2/97)
Draft Ordinance Re: Regulation of Campaign Consultants (dated 5/23/97)
BART Board Rules, Chapter V.: Campaign Contribution Statements and Statements of Economic Interests
Mayor's Proposed Budget for Fiscal Year 1997-98, Total Budget-Historical Comparison of Ethics Commission
"Whither the Municipal Whistleblower?" SF Examiner, 4/10/97
"Campaign Managers Shouldn't be Lobbyists" SF Examiner, 5/25/97
"City's First Ethics Director to Quit Post" SF Examiner, 6/7/97

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

Former Commission Chair Virginia Gee paid her respects to her colleagues. She thanked her fellow commissioners and wished them well.

III. Discussion and Possible Action Re: Approval of Minutes: Meetings of April 28 and May 12. The following motion was approved unanimously:

No. 97-6-9-36 (Gordon-Creed/Dockendorff) Moved, seconded and passed: That the minutes of the April 28 meeting be approved as submitted.

No. 97-6-9-37 (Melbostad/Williams) Moved, seconded and passed: That the minutes of the May 12 meeting be approved as submitted.

IV. Chairperson's Report (Commissioner Gordon-Creed, Acting Chairperson)

Commissioner Gordon-Creed thanked Virginia Gee for her many hours of service as Commissioner and Commission Chair. He noted that Ms. Gee had served on the Commission from its inception, that she had overseen the search for the Executive Director, the development of a protocol and the process of defining tasks for the Commission.

Commissioner Melbostad also commended Ms. Gee for her contributions to the Commission. He stated that Ms. Gee was always very gracious, helpful and always above reproach.

Commissioner Gordon-Creed welcomed new Commissioner Isabella H. Grant. He stated that Commissioner Grant came to the Commission with a long history of public service. Commissioner Grant practiced law in San Francisco for at least 25 years, and was appointed to the Municipal Court bench in 1979 by former Governor Brown and was subsequently elevated to the Superior Court bench in 1982. Commissioner Gordon-Creed noted that when Commissioner Grant presided over the Probate Court, she was considered by all who appeared before her to be fair-minded, compassionate and in possession of an excellent sense of humor. Commissioner Gordon-Creed stated that the Commission will benefit from Commissioner Grant's judicial temperament and fair-mindedness.

V. Director's Report

A. Advice and Opinions Issued

B. Updates

C. Projects and Activities

Ms. Rubin reported that campaign finance statements for the first and second pre-election were posted to the Commission's web page in a timely fashion due to a great deal of hard work by Shawn Allison, Emily Baker and the ISD staff.

Ms. Rubin noted that the State Senate has passed a bill that would mandate electronic filing and online access to campaign finance records of state candidates and committees. Ms. Rubin reported that it is not yet clear how the bill will fare when it reached the

Assembly. She stated that staff will monitor the bill's progress and will expect to work with the State to implement the measure if it is approved.

Ms. Rubin also reported that the Commission staff continues to respond to inquiries and requests for materials from all over the country and the world. She advised that she will meet later this month with a representative from the People's Republic of China to discuss the work of the Commission.

Ms. Rubin announced that she is leaving her position as Executive Director at the end of June or early July. She stated that other opportunities have arisen which she wishes to pursue.

Commissioner Gordon-Creed expressed his thanks to Ms. Rubin on behalf of the Commission, commending her for her skills and dedicated service. He noted that Ms. Rubin had overseen the formation of the Commission office and had hired a highly qualified and dedicated staff. Commissioner Gordon-Creed noted that Ms. Rubin has seen the Commission through a challenging period of growth. He stated that Ms. Rubin's departure is a great loss for the Commission.

Commissioner Gordon-Creed suggested, and the Commission agreed, to post an announcement for the Executive Director's position for a two-week period, after which a closed session will be scheduled to discuss the resumes received. It was determined, however, that due to scheduling difficulties, the special meeting may not take place before the next regular meeting scheduled for July 14. At Commissioner Gordon-Creed's request, Investigator/Auditor Ginny Vida agreed to serve as Acting Director until the Commission selects a permanent Executive Director.

Commissioner Melbostad requested that a list of all filers who file with the Ethics Commission be provided to all commissioners.

VI. Discussion and Possible Re: Proposed Budget for FY 1997-1998.

Ms. Rubin stated that the Mayor's recently released budget for the fiscal year 1997-98 includes only a continuing budget and does not include any of the new initiatives items requested by the Commission.

Ms. Rubin reported that the Board of Supervisor's Budget Analyst office is in the process of making recommendations to the Finance Committee. Last week Ms. Rubin met with a representative from the Budget Analyst's office, who is developing a preliminary report which Ms. Rubin will review before it goes forward. She noted that there is a possibility that the Board of Supervisors could consider the Commission's request additional funding. She stated that the Commission's budget review may be scheduled for June 17, 1997, although this date has not yet been confirmed.

After some discussion, it was decided that Commissioner Melbostad will appear before the Finance Committee and attempt to educate the members about the Commission's

additional budget needs. He will also work with the Supervisors' aides. Commissioner Williams also agreed to speak with the Mayor's Office on behalf of the Commission. Commissioner Melbostad stated that even though it may be too late for the Mayor's Office to change its proposal, it would be important to convey the Commission's genuine needs and advise that the Commission is pursuing an increase in funding.

Commissioner Grant stated that she was struck by how little funding the Commission has to fulfill its mandates.

Commissioner Dockendorff emphasized that the Los Angeles Ethics Commission has a staff of 16 full-time employees and a budget of $2.2 million. He noted that other Ethics Commissions are far better funded than the San Francisco Commission.

Commissioner Williams asked Ms. Rubin to discuss what she had recommended to the Budget Analyst's office and her role in advocating for the additional funding. He expressed concern that the commissioners would appear before the Finance Committee and request items that were not included in the Mayor's proposed budget.

Ms. Rubin advised that the Commission had made a forceful and well-documented case for two additional staff positions -- an auditor and an additional clerical position. She noted that the Commission's efforts to expand public access to filed documents and review them for compliance must be complemented by a full time auditor and someone to assist with filings. Additional space and equipment are also needed.

VII. Nominations and Election of Chairperson and Vice Chairperson for one-year terms commencing July 1997.

Ms. Rubin explained the rules for nominations and elections according to Robert's Rules of Order.

Nominations were opened for the office of Chairperson for a one-year term commencing July 1, 1997.

Commissioner Melbostad nominated Commissioner Gordon-Creed for the office of Chairperson.

Commissioner Gordon-Creed declined the nomination. Commissioner Gordon-Creed then nominated Commissioner Williams for the office of Chairperson.

Commissioner Williams accepted the nomination.

Commissioner Dockendorff nominated Paul Melbostad.

Nominations for Chairperson were closed.

Commissioner Carl Williams was elected Chairperson of the Ethics Commission for the year 1997-1998.

Nominations were then opened for the office of Vice Chairperson of the Ethics Commission, a one-year position commencing on July 1, 1997.

Commissioner Grant nominated Commissioner Gordon-Creed for the position of Vice Chair.

Commissioner Gordon-Creed accepted the nomination.

No other nominations for Vice Chair were made and the nominations were closed.

Commissioner Geoffrey Gordon-Creed was elected Vice Chairperson of the Ethics Commission for the year 1997-1998.

VIII. Discussion and Possible Action Re: Legislative recommendations to Mayor and Board of Supervisors.

Commissioner Gordon-Creed noted that items A, B, D (below) should be grouped together in discussion.

A. Proposed amendments to the Lobbyist Ordinance to increase lobbyist registration and client fee schedules.

B. Proposed amendments to the Lobbyist Ordinance to include regulation of lobbying of the School District, Community College District, Redevelopment Agency, Housing Authority and Transportation Authority.

D. Proposed amendments to the Lobbyist Ordinance re: providing ranges of payment amounts for the reporting of salary payments to employees who are also City officers.

(Items A, B, D Lobbyist Ordinance Amendments)

Commissioner Melbostad stated that he would like to further discuss item C with the City Attorney. He suggested that the Commission defer a decision on this matter for a future meeting and address the other three agenda items today.

Commissioner Gordon-Creed stated that the Commission had studied and come to an agreement on items A and B.

Public comment on item D.

Steve Coulter, President of the Library Commission and an employee at Pacific Telesis, expressed his opposition to the current requirement that his employer report his salary as an activity expense of the company, a registered lobbyist with the City of San Francisco. Mr. Coulter stated that he does not lobby on behalf of Pacific Telesis. He objected to the

salary disclosure as an invasion of privacy. The Lobbyist Ordinance, he said, treats one class of people differently by requiring them to report their specific salaries, while others are not so required.

Deputy City Attorney Julie Moll explained that the Lobbyist Ordinance requires that registered lobbyists report their activity expenses. She noted that the term "activity expense" as defined in the Ordinance includes payments made to benefit City officers, including salaries. The unambiguous language of the Ordinance requires any registered lobbyist to report a salary paid to a City officer. She noted that the Ethics Commission does not have authority to change this language. Any change to the Lobbyist Ordinance must be made by Board of Supervisors.

Commissioner Melbostad supported the proposed amendment providing for a salary range check-off, but suggested changing the range in item D from below $10,000 to an amount above $10,000, which he felt would more accurately reflect full-time employment. David Pilpel expressed his support for this recommendation.

Ms. Rubin explained that the categories listed for item D match those required of filers of Statements of Economic Interests (SEIs).

Ms. Moll stated that although the ranges are pegged to those in the SEIs, the SEIs are filed annually, whereas lobbyists reports are made quarterly. She noted that one could get a sense of whether someone makes more or less than $40,000 based on the quarterly reports.

Mark Mosher, Executive Director of Committee on Jobs, stated that his organization, which is registered as a business lobbyist with the Ethics Commission, reports the portion of his salary that is attributable to lobbying. He stated that the reporting requirements of business lobbyists are above and beyond that of the disclosure levels required of other City officials. He questioned whether this type of reporting is necessary, because officials already report this information on their SEIs.

Anita Mayo, Pillsbury, Madison & Sutro, urged approval of the proposed amendment to include a check-off indicating a range of salaries, per the SEI forms. Ms. Mayo suggested that, to be fair and equitable, the same level of disclosure required by State law should be required by the Commission.

Peggy Brown, an attorney for Pacific Telesis, stated that she has been advised to report the salaries of employees who are also City officers. Reluctant to disclose specific salary information, Ms. Brown filed her lobbyist reports, using the same salary range categories as those on the SEIs. She stated that she had heard of that some employees who had been nominated for City positions had refused to accept an appointment because they would be required to disclose their salaries.

Commissioner Williams expressed concern that requiring specific salary information could have a chilling effect on the willingness of corporate employees to volunteer their

services to City government. He stated that if disclosure is required, he would favor a range of salaries.

Commissioner Gordon-Creed asked Ms. Moll whether the proposed language of item D reflects the range set forth in the SEIs.

Ms. Moll stated that it reflects the SEI range, with one exception. The SEI only requires disclosure of any income that exceeds the $250 threshold, whereas the Lobbyist Ordinance currently requires disclosure of all salary payments. There is no $250 threshold for reporting in the Lobbyist Ordinance. For this reason, the proposed amendments include an additional category: between $0 and $250.

David Pipel noted that any amount that falls on the exact break points is not disclosed in any category.

The Commissioners agreed to correct the language of Section 16.526(a)(4) of the Lobbyist Ordinance to include the term "less than or equal to" where appropriate.

Ms. Mayo raised concern over the proposed increase in fees for lobbyists, stating that it would be an undue burden for some.

After some discussion, it was decided that the Commission would recommend to the Board of Supervisors that the salary disclosure required by the Lobbyist Ordinance be made in a range reflective of the range in the SEIs.

No. 97-6-9-38 (Gordon-Creed/Dockendorff) Moved, seconded and passed: That the Commission adopt the revised draft language in items A, B and D and recommend to the Board of Supervisors that the Lobbyist Ordinance be so amended.

(Item C. Lobbyist Ordinance Amendments)

C. Proposed amendments to the Lobbyist Ordinance re: disclosure of city contracts received by lobbyists, and payments made by city officials to lobbyists.

Commissioner Melbostad stated that he will have further discussion with the City Attorney on item C. He stated that the public should know if a supervisor or commissioner is paying a lobbyist to manage his or her campaign or provide campaign services, because the officials' decision making could be influenced by such business relationships. Commissioner Melbostad stated that it was less clear what could be disclosed if an official has a contract with a law firm to provide legal services. If the law firm performed incidental services, such as preparing a will, disclosure of the nature of those services would constitute an invasion of privacy. It would seem sufficient, he said, to disclosure that there is a contractual relationship with the lobbyist for services.

Responding to an inquiry by Commissioner Williams, Commissioner Melbostad clarified that an attorney-client relationship should be disclosed if a commissioner retains a law firm that is also a registered lobbyist to do personal legal work for that commissioner.

Ms. Moll explained that the Political Reform Act does not cover a situation where a commissioner is paying someone for services and is being called upon to make a decision in which the person receiving payment may have an interest. She explained that a commissioner generally cannot make or participate in making decisions affecting persons who are a source of income to the commissioner. Ms. Moll noted that the Political Reform Act and the City's local conflict of interest laws do not prohibit a commissioner from making or participating in making decisions affecting people who provide services to the commissioner in exchange for payment, when the payment is for the full market value of the services provided.

Commissioner Gordon-Creed asked that Commissioner Melbostad and the City Attorney draft language for future consideration of this matter.

IX. Update and possible Discussion:

A. Draft legislation proposed by Supervisor Ammiano re: regulating campaign consultants

B. Proposed ballot measures re: regulating campaign consultants

Commissioner Gordon-Creed noted that the legislation proposed by Supervisor Ammiano is currently in the legislative process and has been forwarded to the Rules Committee.

Jim Sutton, an attorney at Nielsen, Merksamer, asked whether the Commission has a time line for action on the legislation.

Commissioner Melbostad stated that the Commission currently has no time line for action on Supervisor Ammiano's legislation, which is currently pending before the Rules Committee. He clarified that the Commission had placed Supervisor Ammiano's legislation on the agenda of a recent special meeting for discussion purposes only. The Commission, he said, has taken no position on the legislation and at this time has no plans to place a campaign consultant measure on the ballot.

X. Discussion and Possible Action Re: Whistleblower Hotline.

Commissioner Melbostad stated that he had had a conversation with Ed Lee, the former Whistleblower Program Director, who is now the City's Director of Purchasing. According to Mr. Lee, it would be worthwhile and cost-efficient to create a whistleblower hotline.

Commissioner Gordon-Creed noted that any whistleblower complaint that comes in to the Commission currently is handled in exactly the same way as other complaints. He stated that he is not certain whether the Commission needs a separate telephone line for whistleblower complaints because complainants could simply call the Commission's

main line to register a complaint. Commissioner Gordon-Creed suggested that the whistleblower hotline would benefit from more public exposure, but that the telephone number identified as the hotline number would remain the number for the Ethics Commission.

Commissioner Grant stated that the Commission has been criticized in the press for not having a whistleblower hotline.

Commissioner Melbostad explained that the Whistleblower Program was set up prior to the creation of the Ethics Commission. When the Commission was created, jurisdiction over the Whistleblower Program was placed under the administration of the Commission. This transfer of authority subjected whistleblower complaints to the same procedure as those followed by the Commission for other Ethics complaints. Commissioner Melbostad noted that there is concern that the effectiveness of the program has been diluted because whistleblower complaints are treated the same as other complaints in that the Commission does not investigate them directly but instead refers them to the City Attorney and District Attorney if they appear to allege a violation of law.

Commissioner Gordon-Creed noted that the Ethics Commission may not be getting as many complaints because whistleblower complaints are now being received by the Commission instead of the Mayor's Office. He suggested that the Whistleblower Program was perhaps more effective when it was housed in Mayor's Office and could benefit from its associated influence.

Commissioner Dockendorff noted that the current system guarantees that the Commission will get fewer whistleblower complaints because the complaints are always referred to the City Attorney and District Attorney.

Ginny Vida stated that the Commission has not had many complaints, whistleblower or otherwise, this calendar year. She noted that outreach to the City's workforce and to the public of the Commission's investigatory role might help to bring in more complaints. She also noted that such outreach must be done carefully so that the Commission does not become overwhelmed with complaints it did not have jurisdiction over and which its small staff is not equipped to handle.

Commissioner Melbostad agreed that with the other demands on the staff, there is a limited amount of time the staff can spend on the whistleblower program. He stated that this is something that the public officials who control the budget need to know. He also stated that the Commission should remind the Board of Supervisors that additional funding is needed to run the Whistleblower Program, which the Commission is required to enforce.

Commissioner Dockendorff asked the staff to prepare a one-page flyer, for distribution to City departments, explaining the Commission's whistleblower hotline.

Commissioner Gordon-Creed also asked the staff to prepare suggestions for outreach on the whistleblower program.

XI. Discussion and Possible Action Re: Local Regulation of Slate Mailer Organizations.

Commissioner Melbostad stated that the Commission has no specific proposal regarding slate mailer organizations. He stated that based on a letter received from the FPPC, the City is preempted by state law from requiring additional disclosure requirements. He did not think this should prohibit the City from engaging in regulation of slate mailer organizations. He explained that there are "phony" slate cards that mislead the public that certain candidates endorse local ballot measures. He voiced his opinion that requiring more honesty on slate mailers is not the same as requiring additional disclosures.

Ms. Moll stated that the advice she received from the FPPC made clear that local jurisdictions cannot impose additional and different financial disclosure requirements on slate mailer organizations. She explained that slate mailer organizations are not required to file with the Ethics Commission; they will continue to file their disclosure statements with the Department of Elections. However, the FPPC advice may leave room for a local jurisdiction to require additional disclaimer requirements or impose other kinds of regulations on slate mailers. She noted that local authority may be limited to regulation of slate mailers that are produced for distribution only in San Francisco, or that include only local measures and candidates. If a slate mailer includes measures and candidates to be voted on at the state level or in other districts, the FPPC may conclude that San Francisco may not regulate the contents of the mailer because the mailer could be subject to inconsistent laws.

Commissioner Melbostad stated that he would like to work with the City Attorney to identify those areas over which San Francisco would have jurisdiction.

XII. Agenda Items for Future Meetings

The following items will be put on the agenda for the next regular meeting:

Discussion and Possible Action Re: Whistleblower Hotline
Discussion and Possible Action Re: Local Regulation of Slate Mailer Organizations

There was some discussion regarding a workshop on electronic filing. Shawn Allison proposed two workshops, one in August, presented in cooperation with the FPPC, for local candidates regarding the changes in the law due to Proposition 208; and a second workshop scheduled for September. Once the Commission adopts the standard filing format, a workshop on electronic filing can be scheduled. Ms. Allison suggested that a standard filing format proposal would be ready for the Commission to approve in August. Mr. Allison explained that the format must be mandated by August 25 (60 days prior to the election) in order for the Commission to require its use for the November election.

XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

Ms. Mayo noted that the draft minutes of the May 12 meeting do not indicate that Ms. Rubin had said at that meeting that lobbyists do not have to file Form 2 of the Lobbyist Reports if they do not have any activity and that they may simply make a note of that fact on the cover sheet.

The Commission voted to rescind its approval of the May 12, 1997 minutes pending review of Ms. Rubin's statements at that meeting. Approval of the May 12 minutes was calendered as an agenda item for the next meeting.

XIV. Discussion and Vote Pursuant to Sunshine Ordinance Section 67.11(a) as to whether to conduct a closed session. The following motion was approved unanimously:

Motion No. 97-6-9-39 (Dockendorff/Williams) Moved, Seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance 67.11(a).

XV. Possible Closed Session held pursuant to Charter Section C3.699-13, Brown Act Section 54956.9(c) and Sunshine Ordinance Section 67.14 on whether to disclose action or discussions held in closed session. The following motion was approved unanimously:

Motion No. 97-6-9-40 (Dockendorff/Williams) Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XVII. Adjournment. The meeting was adjourned at 7:36 p.m.

Respectfully submitted,

Naomi Starkman
Whistleblower/Educator

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, JULY 14, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM

I. Call To Order and Roll Call

II. Public Comment Re: Matters appearing or not appearing on the Agenda which are within the jurisdiction of the Ethics Commission

III. Discussion and Possible Action Re: Approval of Minutes: Meeting of June 9, 1997

IV. Chairperson's Report

V. Commissioners' Reports

VI. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities
D. Report on Budget for FY 1997-1998

VII. Update and possible discussion: Proposed legislation regulating campaign consultants

VIII. Staff Report and Discussion/ Possible Action Re: Whistleblower Hotline.

IX. Agenda items for future meetings.

X. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

XI. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session to discuss pending litigation, possible appointment of an Acting Executive Director or an Executive Director.

XII. Possible closed session held pursuant to Charter Section C3. 699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11 to discuss pending litigation, and pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of an Acting Executive Director or an Executive Director:

A. Conference with Legal Counsel - Anticipated Litigation as Plaintiff
Number of possible cases: 1

B. Possible appointment of an Acting Executive Director

C. Discussion of Possible Appointment of an Executive Director

XIII. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

A. Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to Section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

B. Possible report on action taken to appoint an Acting Executive Director or Executive Director pursuant to Government Code 54957.1 (a) (5) and S.F. Administrative Code 67.10 (b).

C. Motion: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: personnel (Discussion of Appointment of an Acting Executive Director or an Executive Director).

XVI. Adjournment

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the SF Admin. Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin. Code §16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics

(Approved 8/11/97)
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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
July 14, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Carl L. Williams called the meeting to order at 5:03 p.m. The following were present:

COMMISSIONERS PRESENT: Carl L. Williams, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Isabella H. Grant, Commissioner; Paul H. Melbostad, Commissioner.

STAFF PRESENT: Ginny Vida, Investigator/Auditor; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Chuck Finnie, The Examiner; Anita Mayo, Pillsbury Madison & Sutro; David Pilpel

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, July 14, 1997
Draft Minutes of the SF Ethics Commission: Meeting of June 9, 1997
Draft Minutes of the SF Ethics Commission: Meeting of May 12, 1997
Approved Minutes of the SF Ethics Commission: Meeting of April 28, 1997
(Interim) Executive Director's Report - July 14, 1997
Synopsis of Advice Letters Issued
Electronic Filing Report Received from ISD, July 14, 1997
Memorandum from Naomi Starkman, Whistleblower/Educator, to Ethics Commission, Re: Whistleblower Outreach Ideas, Draft Flyer and Draft Cover Memorandum to Department Heads
List of Registered Lobbyists as of 7/1/97
List of Ballot Measure Committees for 1997
Filers: Statements of Economic Interests (Form 700 1996-97)
SF Examiner Article: "Supervisors Tweak Brown Budget," 7/3/97
SF Chronicle Article: "Special Groups Earmarked for Slice of SF Budget," 7/3/97

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

There was no public comment.

III. Discussion and Possible Action Re: Minutes: Meeting of June 9, 1997. The minutes of June 9, 1997 were approved as drafted.

IV. Chairperson's Report
Commission Chair Carl L. Williams reported that he had met with the Commission staff to discuss today's agenda. He stated that he had requested revisions to the agenda format as follows: 1) addition of the words "which are within the jurisdiction of the Ethics Commission" to the Public Comment agenda items; and 2) addition of a new item, "Commissioners' Reports." Commissioner Williams noted that he will work with staff to ensure that agenda items clearly identify items on which action is contemplated.

V. Commissioners' Reports
There were no Commissioners' reports at today's meeting.

VI. (Interim) Executive Director's Report

In the absence of Executive Director Jane Rubin, Investigator/Auditor Ginny Vida presented the Interim Executive Director's Report.

A. Advice and Opinions Issued. Ms. Vida reported that three advice letters had been issued since the last meeting, and three additional letters are pending.

B. Updates
C. Projects and Activities

Ms. Vida noted that a report on the Commission's electronic filing project was received today from ISD. The Commission agreed that a representative of ISD should be invited to attend the next meeting to discuss the report. Commissioner Williams asked staff to identify recommendations based on the report and make these available prior to the next meeting.

It was agreed that a workshop on electronic filing will also be discussed at the next meeting. Administrative Assistant Shawn Allison noted that since a law *has been passed by the State Senate* mandating electronic filing in a format to be developed and provided by the State, the Commission's filing requirements should be consistent with those *which may be* prescribed by the State. Mr. Allison urged that the Commission not hold a workshop on electronic filing until the State-mandated format is ready. Mr. Allison noted that ISD will perform data entry of the second semiannual campaign filings for 1997 (contributions and expenditures reported) so that information for each filing received can be posted on the Commission's web site. After the 1997 filings are posted, ISD will enter and post data from the 1996 filings as well.

Commissioner Robert D. Dockendorff stressed that if the Commission requires electronic filing, it should provide the software.

Ms. Vida advised that the FPPC will present a workshop for campaign filers on Thursday, August 28 from 7-9 p.m. in San Francisco re: forms associated with implementation of Proposition 208. (Please note: The Commission was later notified

that the workshop will be held at 401 Van Ness Avenue, Room 207.) The Ethics Commission and the Department of Elections will serve as co-hosts. Deputy City Attorney Julie Moll will be available to answer questions about local campaign laws.

Ms. Moll advised that if as many as three Commission members were to attend the FPPC workshop to be co-hosted by the Ethics Commission, the event would constitute a public meeting. In this case a 21-day advance public notice would be required, since the event will not be held at the Commission's regular meeting site. Staff will check to see which Commission members will attend. Advance public notice will be issued if necessary.

D. Report on Budget for FY 1997-98

Ms. Vida reported that the Board of Supervisors' Finance Committee, at its July 2 meeting, had approved Supervisor Tom Ammiano's proposal to set aside $100,000 for the Ethics Commission in unappropriated reserve, pending the appointment of a new Executive Director. At Commissioner Williams' request, Ms. Vida agreed to inquire as to whether the Mayor's Office had been consulted about the additional funding.

Ms. Vida advised that July 15 is the deadline for lobbyist filings and July 31 is the deadline for semi-annual campaign filings. She noted that staff will be very busy processing these filings and answering inquiries. Copies of all 1997 and 1996 filings will have to be provided to ISD for posting on the web site.

VII. Update and Possible Discussion: Proposed legislation regulating campaign consultants.

Commissioner Paul H. Melbostad reported that the City Attorney had met with Supervisor Ammiano's staff and had produced a new draft of the legislation regulating campaign consultants. The new draft's provisions are limited to reporting requirements, which both the Supervisor and the Mayor have said they would support. The legislation is now being reviewed by the Mayor's Office. Commissioner Melbostad stated that Mike Housh, Supervisor Ammiano's legislative aide, will provide the Commission with an update for next month's meeting.

In response to an inquiry from David Pilpel, Commissioner Melbostad stated that the Ethics Commission currently has no plans, separate from those of Supervisor Ammiano, to pursue legislation regulating campaign consultants. Commissioner Melbostad asked that an update on legislation regulating campaign consultants be included on the August agenda.

VIII. Staff Report and Discussion/ Possible Action Re: Whistleblower Hotline

The Commission reviewed and approved Whistleblower/Educator Naomi Starkman's draft flyer and covering memorandum announcing the Whistleblower Hotline. After some discussion, it was agreed that initially, a limited outreach would be undertaken.

The flyer will be distributed to department heads with a request that it be posted on employee bulletin boards at City departments. It was also agreed that the flyer will be sent to members of boards and commissions via commission secretaries.

Subsequent outreach may include distribution of the flyer to City employees via e-mail, and to City unions.

David Pilpel suggested that the flyer be amended to substitute the phrase "government resources" for "government property."

The following motion was approved unanimously:

Motion No. 97-7-14-41. (Dockendorff/Gordon-Creed) Moved, seconded and passed: That the Commission send the Whistleblower flyer (subject to changes in wording requested by Ethics Commission Members) to department heads and members of boards and commissions; and that the staff report at future meetings on the response to this project, including number and types of complaints received and staff time spent on the telephone interacting with complainants.

IX. Agenda Items for Future Meetings

The following were requested as agenda items for future meetings:

August Agenda
1. Approval of minutes: Meetings of 5/12/97 and 7/14/97
2. Staff recommendations re: electronic filing
3. Implementation of Whistleblower Hotline
4. Possible changes to and clarifications re: the Lobbyist Ordinance
5. Promoting compliance with Lobbyist Ordinance re: registration and reporting requirements. In preparation for this item, staff was asked to report on the results of a survey of lobbyist activity previously distributed, and to obtain a list of all registered lobbyists in Los Angeles, which can then be reviewed for possible lobbyist activity in San Francisco.
6. Report on the Commission's recommendations to the Mayor and Board of Supervisors re: amendments to the Lobbyist Ordinance

September Agenda
1. Proposed language for legislation requiring lobbyists to disclose, on forms filed with the Ethics Commission, City contracts received, ~~and~~ payments made by City officials to lobbyists, *and contracts with lobbyists*. Deputy City Attorney Julie Moll agreed to deliver language to Commissioner Melbostad in August. Commissioner Melbostad will work with Ms. Moll on preparation of this proposal.

2. Proposal of state legislation to regulate slate mailer organizations. Commissioner Dockendorff suggested that the Commission consider a challenge to FPPC opinions restricting such regulation.

Commissioner Williams asked staff to create a list for items for consideration at future meetings which can be calendared at an appropriate time.

Ginny Vida offered to begin preparation of a draft of the Annual Report.

X. Public Comment on Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

Anita Mayo requested clarification of an item in the minutes of 5/12/97, re: lobbyist reporting. She was informed that if no activity has occurred, only the cover sheet need be completed, with a notation that there has been no activity.

David Pilpel urged that the Commission consider the following as criteria for selection of a new Executive Director: experience in dealing with local campaigns, appointed officials, City budget, FPPC policies and operations, and lobbyist regulations. Mr. Pilpel also stated that the candidate selected should have vision and a sense of priorities.

XI. Discussion and vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session to discuss pending litigation, possible appointment of an Acting Executive Director or an Executive Director

The following motion was approved unanimously:

Motion 97-7-14-42. Moved, seconded and passed: That the Commission adjourn to closed session to discuss pending litigation and possible appointment of an Acting Executive Director or an Executive Director.

The Commission adjourned to closed session at 6:30 p.m.

XII. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9 (c) and Sunshine Ordinance section 67.11 to discuss pending litigation, and pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of an Acting Executive Director or an Executive Director:

The Commission concluded its closed session at 7:00 p.m.

XIII. Discussion and vote pursuant to Brown Act sections 54957.1 and 54957.1 (a) (5) and Sunshine Ordinance sections 67.14 and 67.10 (b) on whether to disclose action taken or discussions held in closed session.

The following motion was approved unanimously:

Motion No. 97-7-14-43. Moved, seconded and passed: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

Report on action taken to appoint an Acting Executive Director or Executive Director. The Commission reported that it had voted to appoint Ginny Vida as the Acting Executive Director pending the appointment of a permanent Executive Director. The Commission also reported that it would extend the application period for the Executive Director's position until August 30, 1997. (Please note: The deadline for applications was subsequently extended to September 2, 1997.)

The following motion was approved unanimously:

Motion No. 97-7-14-44. Moved, seconded and passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: appointment of an Acting Executive Director and a Permanent Executive Director.

XIX. Adjournment. The meeting was adjourned at 7:10 p.m.

Respectfully submitted,

Ginny Vida
Acting Executive Director

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, AUGUST 11, 1997, 5:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. Call To Order and Roll Call

II. Public Comment Re: Matters appearing or not appearing on the Agenda which are within the jurisdiction of the Ethics Commission

III. Discussion and Possible Action Re: Approval of minutes of the meeting of July 14, 1997 and amended minutes of the meeting of May 12, 1997

IV. Chairperson's Report

V. Commissioners' Reports

VI. Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities
D. Report on Budget for FY 1997-1998

VII. Staff Report and Recommendations Re: Electronic Filing

A. MOTION: That the Ethics Commission request that the Department of Telecommunications and Information Services (DTIS) perform the following services in FY 1997-98:

1) Focus on future electronic filings projects rather than recovery of past filings such as those filed during the second half of 1996;

2) Prepare a draft of a standard electronic filing format (for on-disk filing) for review and approval at the meeting of September 8, 1997, in furtherance of the Commission's goal of implementing a standard electronic filing format for campaign finance disclosure;

3) Work with the Ethics Commission staff to identify automated auditing tools for electronically filed data.

(continued on page 2)

VII. Staff Recommendations Re: Electronic Filing (continued from page 1)

B. MOTION: That the Ethics Commission request that DTIS implement a pilot on-line filing program beginning October 19, 1997 for the November 4, 1997 General Election. The program will be voluntary. Although there is currently no requirement that late contribution reports be filed electronically, DTIS may offer the option of filing these reports (Form 497) as a first step toward implementation of on-line filing of campaign finance disclosure forms.

VIII. Staff Report on the Status of the Whistleblower Hotline.

IX. Discussion and Possible Action: Re: Lobbyist Ordinance

A. Report on Ethics Commission's Recommendations to the Mayor and Board of Supervisors Re: Amendments to the Lobbyist Ordinance

B. Staff Report: Recommended Changes to and Clarifications of the Lobbyist Ordinance

X. Report by Staff Re:

A) Commissioner Dockendorff's Request that Staff Provide List of Registered Lobbyists in Los Angeles

B) Commissioner Dockendorff's Request that Staff Provide Results of Commission Survey of Lobbyist Activity

XI. Discussion and Possible Action: Search Process for Permanent Executive Director

XII. Agenda items for future meetings.

XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

XIV. Adjournment

(continued on page 3)

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(Approved 9/8/97)

Minutes of the
San Francisco Ethics Commission
1390 Market Street, Room 227
August 11, 1997; 5:00 p.m.

I. Call To Order and Roll Call. Commission Chair Carl L. Williams called the meeting to order at 5:00 p.m. The following were present:

COMMISSIONERS PRESENT: Carl L. Williams, Chair; Robert D. Dockendorff, Commissioner; Isabella H. Grant, Commissioner; Paul H. Melbostad, Commissioner. Geoffrey Gordon-Creed, Vice-Chair, was excused due to illness.

STAFF PRESENT: Ginny Vida, Acting Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Rod Loucks, Department of Telecommunications and Information Service (DTIS); Anita Mayo, Pillsbury Madison & Sutro; David Pilpel

MATERIALS DISTRIBUTED:

SF Ethics Commission Agenda, August 11, 1997
Draft Minutes of the SF Ethics Commission: Meeting of July 14, 1997
Draft Minutes of the SF Ethics Commission: Meeting of May 12, 1997
Acting Executive Director's Report - August 11, 1997
Electronic Filing Report and Proposals
Staff Report on Tracking of Whistleblower Hotline
Staff Report on the Commission's Recommendations to the Mayor and Board of Supervisors,
Recommendations for Changes to the Lobbyist Ordinance
Staff Recommendations for Changes to the Lobbyist Ordinance
List of Registered Lobbyists in Los Angeles
Letter sent to Late Filers re: First Semi-annual Campaign Statements
Results of Commission Survey on Lobbyist Activity
"Ex-Brown Aide Lobbies His Way to New Career," S.F. Examiner, 8/5/97
"Football Stadium Backers Spent Record $2.5 million," S.F. Examiner, 8/6/97
"Ethics as Humor," S.F. Examiner, 7/22/97
"City Ethics Panels Lacks Head, Staff Funding," S.F. Examiner, 7/21/97
Campaign Disclosure Flyer Re: FPPC Workshop Scheduled for 8/28/97

II. Public Comment Re: Matters Appearing or Not Appearing on the Agenda.

Anita Mayo of Pillsbury Madison & Sutro commended the Commission on its Lobbyist Ordinance and Manual and reported that the City of Richmond has relied on both documents as models in creating its own ordinance and manual.

III. Discussion and Possible Action Re: Minutes: Meeting July 14 and May 12, 1997.

The following motions were approved unanimously:

Motion No. 97-8-11-45. (Melbostad/Grant) Moved, seconded and passed: That the minutes of the July 14, 1997 meeting be approved with the following changes: Page 2, In Projects and Updates: Indicate that the electronic filing bill was passed by the State Senate. Page 5, first sentence should read, "Proposed language for legislation requiring lobbyists to disclose, on forms filed with the Ethics Commission, City contracts received, payments made by City officials to lobbyists, and contracts with lobbyists."

Motion No. 97-8-11-46. (Melbostad/Dockendorff) Moved, seconded and passed: That the minutes of the May 12 meeting be approved with the following changes: Page 4, third paragraph should include "payments from" City officers. The last sentence of the third paragraph should read, "...the same attorney who is lobbying the Board...". Page 6, third paragraph should read, "After the contract is awarded, the winning bidder may not contribute to the officer's campaign during the three months subsequent to receiving the contract."

IV. Chairperson's Report.

Commission Chair Carl L. Williams reported that following the July 14 meeting, the deadline for submission of resumes for the position of Executive Director had been extended from August 30, 1997 to September 2, 1997, because the Commission office will be closed on August 30.

V. Commissioner's Reports.

Commissioner Paul H. Melbostad reported that a scaled-back version of Supervisor Ammiano's Honest Elections Ordinance will appear on the November 1997 ballot. He asked that staff prepare a definition of the term "negotiation" for the contractor provision of the Campaign Finance Reform Ordinance. Acting Executive Director Ginny Vida stated that she will work with Deputy City Attorney Julie Moll to prepare the definition.

VI. Director's Report

A. Advice and Opinions issued

B. Updates

C. Projects and Activities

D. Report on Budget for FY 1997-1998

Acting Executive Director Ginny Vida reported that no advice letters were issued since the Commission's last meeting.

Ms. Vida reported that she, Commissioner Robert D. Dockendorff, and Administrative Assistant Shawn Allison had met with Rod Loucks and Ron Kane of the Department of Telecommunications and Information Services (DTIS) to discuss future electronic filing services to be provided by DTIS to the Commission.

Commissioner Melbostad requested that the staff prepare a supplemental budget proposal and information regarding budget procedures for submission by the new Executive Director.

Ms. Vida reported that the Commission has received 26 resumes for the Executive Director position. She also reported that the Commission sent a letter today to all late campaign filers. Ms. Vida stated that there was a 50 percent noncompliance rate for the July 31, 1997 filing deadline.

David Pilpel asked that a list of non-filers be made available to him.

Commissioner Dockendorff asked whether the Second Quarterly Lobbyist Report had been posted to the Commission's web site. Whistleblower/Educator Naomi Starkman informed the Commission that DTIS is in the process of posting this report and that it should be on the web site by next week.

VII. Staff Report and Recommendations Re: Electronic Filing.

The Commission discussed Motion VII A, on today's agenda. Commissioner Dockendorff stated that he and the staff had decided to recommend that the Commission concentrate on posting information to the web site from the second semi-annual 1997 filing, rather than trying to post the 1996 filings through a laborious and expensive data entry process. He stated that the database for 1996 was not in good condition and that it would have taken much effort on the part of DTIS and staff to convert it to a uniform format. He recommended creating a current and uniform format so that timely and complete information could be provided electronically to the public in the future.

Rod Loucks of DTIS confirmed Commissioner Dockendorff's remarks and further stated that it would take a great deal of time and expense to do either an electronic conversion of the 1996 data or enter all this data by hand from the hard copy filings.

Commissioner Dockendorff stated that the Commission does not have the funding to try to reconcile this problem. He noted that the 1996 filings are available in paper format for review in the Commission Office.

David Pipel suggested that a student intern might be recruited to input the 1996 filings so that this older data is made available on the web site.

Motion No. 97-8-11-47. (Grant/Melbostad) Moved, seconded and passed: That the Ethics Commission request that the Department of Telecommunications and Information Services (DTIS) perform the following services in FY 1997-98:

1. **Focus on future electronic filings projects rather than recovery of past filings such as those filed during the second half of 1996;**

2. **Prepare a draft of a standard electronic filing format (for on-disk filing) for review and approval at the meeting of September 8, 1997, in furtherance of the Commission's goal of implementing a standard electronic filing format for campaign finance disclosure;**

3. **Work with the Ethics Commission staff to identify automated auditing tools for electronically filed data.**

The Commission discussed the Motion VII B on today's agenda, regarding on-line filing.

David Pilpel noted that footnotes are required by the FPPC and that no field has been provided in the Commission's preliminary draft electronic filing format to handle footnotes. He suggested that Form 410 should have links between candidate I.D. numbers and links between campaign contributors and lobbyists. He also noted that the motion does not refer to a presentation style and suggested that it should be clear and easy to follow, such as the data that has been posted to the web site re: the June election filings.

Rod Loucks stated that the information re: the June election is the model for future filings.

Administrative Assistant Shawn Allison advised that he and Ron Kane will meet with the Political Audit Unit of the Franchise Tax Board on August 22 to discuss incorporating auditing tools into the standard electronic format, so that much of the auditing work can be performed through manipulation of the electronic data.

Ms. Vida stated that Commissioner Geoffrey Gordon-Creed had expressed his concern that the Commission might proceed with development of a standard filing format, despite the fact that the State is developing a standard format of its own.

Commissioner Dockendorff noted that it may take the State considerable time before its filing format is ready. He recommended that the Commission move ahead with its plans.

Ms. Vida agreed, noting that the State is working with some 30 vendors and will seek vendor approval of its format. This process may be time consuming.

Mr. Loucks noted that the State does not even anticipate testing its format until the Spring of 1998 and also does not anticipate implementing an on-line system until the year 2000.

Motion No. 97-8-11-48. (Grant/Melbostad) Moved, seconded and passed: That the Ethics Commission request that DTIS implement a pilot on-line filing program beginning October 19, 1997 for the November 4, 1997 General Election. The program will be voluntary. Although there is currently no requirement that late contribution reports be filed electronically, DTIS may offer the option of filing these reports (Form 497) as a first step toward implementation of on-line filing of campaign finance disclosure forms.

VIII. Staff Report on the Status of the Whistleblower Hotline.

Ms. Vida reported that the Commission's new telephone line dedicated for the Whistleblower Program and called the "Whistleblower Hotline," began receiving calls on July 21, 1997. Although the Commission has been receiving and processing whistleblower complaints since it began operations, the Commission had authorized the activation of a dedicated phone line. Ms. Vida noted that there have been six calls to the Hotline, one of which has resulted in a signed complaint. Ms. Vida also reported that in at least one case, the caller told staff that he saw the flyer on his department's bulletin board. This data relates only to the complaints received via the dedicated phone line. It does not include information about whistleblower complaints received through the ordinary complaint process.

Commission Chair Williams asked that staff continue to update the Commission on the Hotline's activity.

Commissioner Dockendorff noted that much of the activity happened after the flyer was sent to department heads and secretaries of boards and commissions. He suggested that the Commission further advertise the Hotline with local unions.

Ms. Vida urged that, in view of the Commission's reduced staff and current workload, outreach to the unions be postponed until a permanent Executive Director has been appointed.

Mr. Pipel expressed his approval of the Hotline's outgoing recorded message. He noted that the portion of the message which states that the Commission refers out employment-related complaints is productive.

Commission Chair Williams asked whether the complaints received via the Hotline are specific in nature. Ms. Vida stated that often they are, but that sometimes the callers do not provide enough information. She noted that the Charter mandates that complaints contains sufficient facts to warrant an investigation.

Commission Chair Williams asked staff to keep track of the types of complaints received on the Hotline. Ms. Starkman informed the Commission that future monthly reports on Whistleblower complaints will include cumulative totals for types of complaints filed .

IX. Discussion and Possible Action: Re: Lobbyist Ordinance.

A. Report on Ethics Commission's Recommendations to the Mayor and Board of Supervisors Re: Amendments to the Lobbyist Ordinance.

Ms. Vida reported that the Commission forwarded the proposed amendments to the Mayor and the Board of Supervisors on June 10. She explained that because one of the amendments involves an increase in lobbying fees and fines, the matter has been forwarded to the Finance Committee but is not expected to be calendared until September 17. Commission Chair Williams asked staff to determine the Budget Analyst Office's recommendation on the matter. Ms. Vida stated that staff will prepare a budget narrative for the Budget Analyst Office's and the Finance Committee.

B. Staff Report: Recommended Changes to and Clarifications of the Lobbyist Ordinance.

Commission Chair Williams explained that the staff is seeking guidance from the Commission regarding a number of possible changes to the Lobbyist Ordinance, which, if approved by the Commission, must be submitted for approval to the Board of Supervisors. He noted that it may take a great deal of time for the staff to draft language that will be acceptable to the Commission and the Board, and which will withstand legal challenge.

Ms. Starkman explained that the Lobbyist Ordinance is complicated and difficult to understand. She gave the Commissioners an example of how it is unclear whether one is lobbying if one engages in related activity but does not "communicate" with a City officer.

After some discussion, it was decided that staff and the City Attorney will draft proposed legislation. Commissioner Isabella H. Grant suggested that the staff first prepare the technical changes to the ordinance, and that policy changes be prepared subsequently and calendared for a later agenda.

Ms. Moll explained that technical changes to the ordinance would consolidate sections and conform the language by making it standard. She explained that policy changes may include codification of interpretations and advice issued by the Clerk of the Board of Supervisors, the City Attorney, and the Ethics Commission.

Anita Mayo of Pillsbury, Madison and Sutro asked that the public be allowed to comment at the time the draft legislation is contemplated.

X. Report by Staff Re:

A. Commissioner Dockendorff's Request that Staff Provide List of Registered Lobbyists in Los Angeles

Commissioner Dockendorff noted that the unions in Los Angeles are all represented by lobbyists. He expressed his concern that there may be union clients in San Francisco which have not been registered or reported here.

Ms. Moll stated that under the San Francisco Lobbyist Ordinance, clients of contract lobbyists and employees of business lobbyists are not required to register as lobbyists, but the contract lobbyist and the business lobbyist may be required to register if they meet the thresholds set forth in the ordinance.

Commission Chair Williams noted that this is an area of concern. Commissioner Dockendorff stated that the Commission may want to broaden the definition of lobbying to encompass union activity.

B. Commissioner Dockendorff's Request that Staff Provide Results of Commission Survey of Lobbyist Activity

Ms. Starkman reported that the Commission received four responses to the Survey on Lobbyist Activity sent out to all board and commission secretaries on February 24, 1997. She explained that as part of the outreach effort to raise awareness about the Commission and the Lobbyist Ordinance, the Commission had requested that City boards and commissions voluntarily place on their agendas a notice regarding the obligation of lobbyists to register with the Commission.

Commissioner Melbostad stated that there has been a good response to the second request and that he is aware of several commissions and boards that have voluntarily complied.

Commissioner Dockendorff asked that the staff develop recommendations for outreach re: compliance with the Lobbyist Ordinance, to be placed on the agenda for the next meeting, and that this be an item for contemplated action.

XI. Discussion and Possible Action: Search Process for a Permanent Executive Director.

Ms. Vida noted that, prior to today's meeting, Commissioner Gordon-Creed had asked that his proposal be presented re: how the Commission should proceed with the search process for a permanent Executive Director. Commissioner Gordon-Creed suggested that after the September 2 deadline for submission of resumes, staff would forward to the Commission Members all resumes not previously sent. From all the resumes submitted, each Commissioner would select his or her

top ten candidates and rank them 1-10, and then a special meeting could be held, at which the Commission could identify the top five candidates.

Commissioner Melbostad stated that he thought that Commissioner Gordon-Creed's proposal ensures fairness in that all applicants would be considered.

It was decided that the above procedure will be followed, and that a closed session will be scheduled for the September 8 Commission meeting, at which the selected and ranked resumes will be reviewed. The Commission will attempt at this meeting to narrow the pool of candidates to the top five. The Commission will then adjourn to public session and set a date for a special meeting to further consider the 5 candidates.

XII. Agenda items for future meetings.

1. Items to Be Calendared for Future Meetings

A. Commissioner Melbostad asked that the Commission consider proposed language for legislation requiring lobbyists to disclose, on forms filed with the Ethics Commission, City contracts received and, payments made by City officials to lobbyists. Commissioner Melbostad will work with Ms. Moll on preparation of this proposal.

B. Commission Chair Williams asked that staff produce a running list of items for future agendas and items discussed in the past but not resolved. He asked the staff to recommend when those items should be calendared for discussion and possible action. Ms. Vida stated that she will include this item in her next Acting Executive Director's Report.

C. Proposal of state legislation to regulate slate mailer organizations. Commissioner Dockendorff asked that the Commission consider a challenge to FPPC opinions restricting such regulation.

2. Additional Discussion of Possible Items for Future Agendas

Commissioner Melbostad suggested that the Commission might, at a future meeting, explore whether provision of free air time by a cable provider to City officials could constitute a conflict of interest if the officials had a role in authorizing the cable contract.

XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission.

There was no public comment.

XIV. Adjournment.

The Commission adjourned at 7:00 p.m.

Respectfully Submitted,

_____

Naomi Starkman,
Whistleblower/Educator

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF MEETING FOR MONDAY, SEPTEMBER 8, 1997, 5:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. Call To Order and Roll Call

II. Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission

III. Discussion and Possible Action Re: Approval of minutes of the meeting of August 11, 1997

IV. Chairperson's Report

V. Commissioners' Reports

VI. Director's Report
A. Advice and Opinions issued
B. Updates
1. Report on Budget for FY 1997-1998
2. Report on Volume of Calls Received via the Whistleblower Hotline
3. Status report on Ethics Commission's Recommendations to the Mayor and Board of Supervisors Re: Amendments to the Lobbyist Ordinance
4. Report on list of items previously considered but not resolved by the Commission
5. Status report re: preparation of the Commission's Annual Report
6. Status report on staff recommendations re: compliance with the Lobbyist Ordinance
C. Projects and Activities

VII. Discussion and Possible Action: Staff Report and Proposed Motion Re: Adoption of Standard Electronic Filing Formats

Motion: That the Ethics Commission adopt the standard electronic filing formats recommended by the staff. The formats will be for voluntary use for filings that are made in connection with the November 4, 1997 election, and for semi-annual statements due on January 31, 1998. Pursuant to the requirements of the City's Electronic Filing Ordinance, use of these formats shall be mandatory for semi-annual, pre-election and supplemental pre-election statements that are due after February 1, 1998.

(continued on page 2)

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VIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

IX. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session

X. Possible closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance section 67.11 to discuss pending litigation, and pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of a permanent Executive Director:

A. Conference with Legal Counsel: Anticipated Litigation as Plaintiff
Number of possible cases: 1

B. Possible appointment of a permanent Executive Director

XI. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

A. Motion: The Charter provides that deliberations regarding complaints are confidential. Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

B. Possible report on action taken to appoint a permanent Executive Director pursuant to Government Code 54957.1(a)(5) and S.F. Administrative Code 67.10 (b)

C. Motion: The Ethics Commission finds that it is in the bests interests of the public not to disclose its closed session deliberations re: personnel (possible appointment of a permanent Executive Director)

XII. Discussion and Possible Action Re: Search process for a permanent Executive Director

XIII. Adjournment

(continued on page 3)

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Minutes of the
San Francisco Ethics Commission Meeting
1390 Market St., Room 227
September 8, 1997; 5:00 p.m.

I. Call to Order and Roll Call. Commission Chair Carl L. Williams called the meeting to order at 5:00 p.m. The following were present:

COMMISSIONERS PRESENT: Carl L. Williams, Chair; Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Isabella H. Grant, Commissioner; Paul H. Melbostad, Commissioner.

STAFF PRESENT: Ginny Vida, Acting Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro; Rod Loucks, Department of Telecommunications and Information Service (DTIS); Ron Kane (DTIS)

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, September 8, 1997
Draft Minutes of the SF Ethics Commission: Meeting of August 11, 1997
Approved Minutes of the SF Ethics Commission: Meeting of July 14, 1997
Acting Executive Director's Report, September 8, 1997
Tracking Chart for the Whistleblower Hotline, September 8, 1997
Staff Report Re: Proposed Standard Filing Formats, September 5, 1997
Letter from Sheryl White of Statecraft, September 5, 1997
"State Closer to Reporting Donations on Internet," S.F. Examiner, 9/8/97

II. Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission.

Sheryl White from Statecraft commended the Ethics Commission and DTIS on the proposed electronic filing formats.

III. Discussion and Possible Action Re: Approval of minutes of the meeting of August 11, 1997.

Motion No. 97-9-8-49. (Grant/Gordon-Creed) Moved, seconded and passed: That the minutes of the August 11, 1997 meeting be approved.

IV. Chairperson's Report.

Commissioner Chair Carl L. Williams reported that he had met with the staff of the Ethics Commission regarding the creation of a list of priorities for the Commission. He stated that the list is extensive and indicated that at the next meeting, staff will present the list of priority issues and a timetable for addressing them.

V. Commissioners' Reports.

Commissioner Paul H. Melbostad reported that he had discussed the possible regulation of slate mailers with Deputy City Attorney Julie Moll. He noted that Governor Wilson had vetoed Senator Burton's bill regulating slate mailers and suggested that the Commission could adopt similar disclosure requirements as those required on a state level.

Commission Chair Williams asked who would be regulated in this proposed legislation.

Commissioner Melbostad stated that the legislation would regulate slate mailer cards that appeared to misrepresent the of true nature of endorsements.

VI. Acting Executive Director's Report

A. Advice and Opinions issued

B. Updates

1. Report on Budget for FY 1997-1998

2. Report on Volume of Calls Received via the Whistleblower Hotline

3. Status report on Ethics Commission's Recommendations to the Mayor and Board of Supervisors Re: Amendments to the Lobbyist Ordinance

4. Report on list of items previously considered but not resolved by the Commission

5. Status report re: preparation of the Commission's Annual Report

6. Status report on staff recommendations re: compliance with the Lobbyist Ordinance

C. Projects and Activities

Acting Executive Director Ginny Vida reported that no advice letters were issued since the Commission's last meeting.

Ms. Vida reported that the Budget Analyst's office has advised that the proposed amendments to the Lobbyist Ordinance are calendared for September 17, 1997 at 1:00 p.m. at 401 Van Ness, Room 410. Ms. Vida and Whistleblower/Educator Naomi Starkman will attend this meeting. Ms. Vida stated that the Budget Analyst's office has not taken a position on the proposed amendments because they involve a fee increase, which that office deems to be a policy matter for the Board of Supervisors.

Commissioner Melbostad commended Ms. Vida on her memo explaining the Commission's position regarding the proposed increase in lobbyist fees.

Ms. Vida advised that she will attend a conference held by the Council on Governmental Ethics Laws (COGEL) in Edmunton, Alberta from September 14-16.

Ms. Vida reported that staff is preparing pre-election notices to be sent to appropriate parties regarding restrictions on campaign contributions set forth in Proposition 208 and the local Campaign Finance Reform Ordinance.

Ms. Vida advised that the next Commission meeting is scheduled for October 13, a City holiday. In accordance with the Bylaws, it was decided that the Commission will meet on the following day, Tuesday, October 14. Advance public notice of this meeting will be provided as required.

Commission Chair Williams commended staff for preparation of the Whistleblower Hotline tracking log. Ms. Vida reported that the Commission has received a total of 11 complaints, 9 of which were Whistleblower complaints, but only two were received via the Hotline. She told the Commission that the Hotline message provides the number for the Commission's main telephone line, in addition to the Hotline number. She offered to augment the chart by indicating the number of calls alleging a violation of the Whistleblower Ordinance that are received via the Hotline and through other sources.

The Commissioners asked Deputy City Attorney Julie Moll to look into the Commission's legal obligation regarding sexual harassment complaints filed with the Commission.

Acting Executive Director Ginny Vida stated that the staff had previously proposed amending the Improper Government Activities Ordinance to narrow the areas over which the Commission has jurisdiction. She noted that the Commission had previously contemplated removing sexual harassment from the Ordinance because the Department of Human Resources' Equal Employment Opportunity Office had designated members of its staff to handle sexual harassment complaints.

VII. Discussion and Possible Action: Staff Report and Proposed Motion Re: Adoption of Standard Electronic Filing Formats

The Commission discussed Motion VII, on today's agenda. Ms. Vida noted that Rod Loucks and Ron Kane from DTIS were in attendance at today's meeting, and she commended both for their excellent work regarding the standard electronic filing formats.

Ron Kane noted that he and Administrative Assistant Shawn Allison had worked together to create a universal format for all filers to use. Responding to a question by Commissioner Gordon-Creed, Mr. Kane affirmed that filers will be able to access the format information from the Commission's web site, free of charge. He stated that software vendors will offer packages but that filers will also be able to employ commonly used database or spreadsheet programs such as Excel, FoxPro and Access.

Commissioner Gordon-Creed asked Mr. Kane whether he had received any feedback from potential filers regarding the proposed formats. Mr. Kane reported that he had received no complaints.

Commissioner Gordon-Creed expressed his concern that if the State approves its own format earlier than anticipated, the Commission's format may be moot. In response, Mr. Kane noted that many states are relying on the Commission to pave the way for them in proposing a standard format.

Mr. Allison advised that he will attend a meeting at the Secretary of State's Office on September 16, at which the State will introduce its own standard formats to software vendors. He noted that following this meeting, the Commission can add enhancements to its own formats. After some discussion, the followed motion was unanimously approved:

Motion No. 97-9-8-50. (Dockendorff/Melbostad) Moved, seconded and passed: That the Ethics Commission adopt the standard electronic filing formats recommended by the staff, subject to enhancements. The formats will be for voluntary use for filings that are made in connection with the November 4, 1997 election, and for semi-annual statements due on January 31, 1998. Pursuant to the requirements of the City's Electronic Filing Ordinance, use of these formats shall be mandatory for semi-annual, pre-election and supplemental pre-election statements that are due after February 1, 1998.

Commission Chair Williams asked staff to prepare a press release announcing the Commission's decision to adopt the standard electronic filing formats.

Commissioner Robert D. Dockendorff commended the hard work of Mr. Loucks and Mr. Kane and thanked them for their contributions.

VIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission.

There was no public comment. Commissioner Melbostad noted that he has worked with Ms. Moll on draft legislation regarding disclosure of contracts between City officials and lobbyists and requested that this matter be calendared for a future agenda.

Ms. Vida stated that, based on her recent review of all minutes from the past year, she has created a list of initiatives that have been proposed but not resolved, and has sorted them into categories. She advised that at the October meeting, staff will propose a list of Commission priorities and a timetable for addressing these initiatives. She stated that all initiatives, including the draft legislation re: disclosure of contracts between City officers and lobbyists, will be incorporated into this document.

IX. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session. The following motion was approved unanimously:

Motion No. 97-9-8-51. (Dockendorff/Melbostad) Moved, Seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance 67.11(a).

X. Closed Session.

A closed session was held to discuss possible appointment of a permanent Executive Director.

The Commission adjourned to open session at 6:45 p.m.

XI. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session. The following motion was approved unanimously:

Motion No. 97-9-8-53 (Dockendorff/Melbostad) Moved, seconded and passed: The Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: personnel (possible appointment of a permanent Executive Director).

XII. Discussion and Possible Action Re: Search process for a permanent Executive Director.

The Commission decided to conduct interviews for the position of Executive Director on September 22 and 23, and to notify by mail those candidates who will not be interviewed..

XIII. Adjournment. The meeting was adjourned at 6:05 p.m.

Respectfully Submitted,

_____

Naomi Starkman,
Whistleblower/Educator

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Ethics Commission

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF *SPECIAL MEETING* FOR MONDAY SEPTEMBER 22, 1997, 2:30 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. **Call To Order and Roll Call**

II. **Public Comment Re: Matters appearing on the Agenda**

III. **Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session**

IV. **Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of a permanent Executive Director**

V. **Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session**

A. Possible report on action taken to appoint a permanent Executive Director pursuant to Government Code 54957.1(a)(5) and S.F. Administrative Code 67.10 (b)

B. Motion: The Ethics Commission finds that it is in the bests interests of the public not to disclose its closed session deliberations re: personnel (possible appointment of a permanent Executive Director)

VI. **Adjournment**

(more)

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF *SPECIAL MEETING* FOR TUESDAY SEPTEMBER 23, 1997, 2:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. Call To Order and Roll Call

II. Public Comment Re: Matters appearing on the Agenda

III. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session

IV. Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of a permanent Executive Director

V. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

A. Possible report on action taken to appoint a permanent Executive Director pursuant to Government Code 54957.1(a)(5) and S.F. Administrative Code 67.10 (b)

B. Motion: The Ethics Commission finds that it is in the bests interests of the public not to disclose its closed session deliberations re: personnel (possible appointment of a permanent Executive Director)

VI. Adjournment

(more)

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SAN FRANCISCO ETHICS COMMISSION AGENDA

AND NOTICE OF *SPECIAL MEETING* FOR WEDNESDAY OCTOBER 1, 1997, 5:00 P.M. 1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. Call To Order and Roll Call

II. Public Comment Re: Matters appearing on the Agenda

III. Discussion and vote pursuant to Sunshine Ordinance section 67.11 (a) as to whether to conduct a closed session

IV. Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of a permanent Executive Director

V. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

A. Possible report on action taken to appoint a permanent Executive Director pursuant to Government Code 54957.1(a)(5) and S.F. Administrative Code 67.10 (b)

B. Motion: The Ethics Commission finds that it is in the bests interests of the public not to disclose its closed session deliberations re: personnel (possible appointment of a permanent Executive Director)

VI. Adjournment

(more)

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SAN FRANCISCO ETHICS COMMISSION

NOTICE OF MEETING CANCELLATION

THE MEETING OF THE SAN FRANCISCO ETHICS COMMISSION SCHEDULED FOR:

OCTOBER 14, 1997; 5:00 P.M.

AT 1390 MARKET STREET, ROOM 227

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SAN FRANCISCO ETHICS COMMISSION AGENDA
and
NOTICE OF SPECIAL MEETING
FOR TUESDAY, OCTOBER 21, 1997, 5:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. Call To Order and Roll Call

II. Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission

III. Discussion and Possible Action Re: Approval of minutes of the meeting of September 8, 1997

IV. Chairperson's Report

V. Commissioners' Reports

VI. Swearing-in of Permanent Executive Director

VII. Executive Director's Report
- A. Advice and Opinions issued
- B. Updates
  1. Report on Volume of Calls Received via the Whistleblower Hotline
  2. Status report on Ethics Commission's Recommendations to the Mayor and Board of Supervisors Re: Amendments to the Lobbyist Ordinance
  3. Status report re: Preparation of the Commission's Annual Report
- C. Projects and Activities

VIII. Discussion and Possible Action re: Approval of Proposed FY 1997-98 Supplemental Budget for referral to the Board of Supervisors

IX. Discussion and Possible Action re: Approval of Proposed Revision of the Lobbyist Manual

X. Discussion and Possible Action re: Proposed List of Commission Initiatives for 1997-98 and Proposed Timetable for Addressing the Initiatives

XI. Discussion and Possible Action re: Recommendations re: Process for Appointment of an Investigator/Auditor

(Please turn over for page 2)

XII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

XIII. Adjournment

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Minutes of the
San Francisco Ethics Commission
Special Meeting
1390 Market St., Room 227
October 21, 1997; 5:00 p.m.

I. Call To Order and Roll Call. Commission Vice-Chair Geoffrey Gordon-Creed called the meeting to order at 5:15 p.m. The following were present:

COMMISSIONERS PRESENT: Geoffrey Gordon-Creed, Vice-Chair; Isabella H. Grant, Commissioner; Paul H. Melbostad, Commissioner. Commissioner Robert D. Dockendorff joined the meeting in progress.

STAFF PRESENT: Ginny Vida, Acting Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, October 21, 1997
Approved Minutes of the SF Ethics Commission: Meeting of August 11, 1997
Draft Minutes of the SF Ethics Commission: Meeting of September 8, 1997
Executive Director's Report, October 21, 1997
Whistleblower Hotline Tracking Chart, October 21, 1997
Draft Supplemental Budget Proposal, October 17, 1997
Proposed Changes to the Lobbyist Manual, October 21, 1997
Proposed Initiatives and Timetable, October 17, 1997
Process for Appointment of an Investigator/Auditor, October 17, 1997
Calif. Voter Foundation report re: signing of SB 49 (re: electronic filing), October 14, 1997

II. Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

III. Discussion and Possible Action Re: Approval of minutes of the meeting of September 8, 1997.

Motion 97-10-21-54 (Grant/Melbostad) Moved, seconded and passed: That the minutes of the September 8, 1997 meeting be approved.

IV. Chairperson's Report

There was no report from the Chairperson.

V. Commissioners' Reports

There were no reports from the Commissioners.

VI. Swearing-in of Permanent Executive Director

Commission Vice-Chair Geoffrey Gordon-Creed and Commissioner Paul H. Melbostad congratulated Acting Executive Director Ginny Vida on her recent appointment to the position of Permanent Executive Director. Both Commissioners commended Ms. Vida for her excellent work during her tenure as Acting Executive Director.

Commissioner Isabella H. Grant administered the Oath of Office to Ms. Vida, who assumed the position of Executive Director, San Francisco Ethics Commission.

VII. Executive Director's Report

A. Advice and Opinions issued

B. Updates

1. Report on Volume of Calls Received via the Whistleblower Hotline

2. Status report on Ethics Commission's Recommendations to the Mayor and Board of Supervisors Re: Amendments to the Lobbyist Ordinance

3. Status report re: Preparation of the Commission's Annual Report

C. Projects and Activities

Executive Director Ginny Vida thanked the Commission Members for her appointment and said she looked forward to assisting the Commission in moving its agenda forward.

Ms. Vida reported that on October 17, 1997 Mayor Brown signed into law the Commission's proposed amendments to the Lobbyist Ordinance. She advised that the amendments will take effect on November 17, 1997. She told the Commission that a notice regarding the changes will be sent to registered lobbyists.

Ms. Vida reported that a draft annual report for FY 1997-98 will be ready for review and approval at the next Commission meeting.

Ms. Vida stated that she is in the process of locating larger premises for the Commission office. She explained that due to the additional $100,000 in unappropriated Board reserve, the Commission will be able to hire two additional staff members. The increase in staffing will cause the Commission to move to larger quarters. After a brief discussion regarding the cost of rental space, Ms. Vida stated that she will keep Commission members informed regarding the status of the move.

Ms. Vida reported that in September she attended a conference sponsored by the Council on Government Ethics Laws in Edmunton, Alberta. She reported that electronic filing was a frequent focus of discussion at the conference.

Administrative Assistant Shawn Allison reported that last week he attended a training in political auditing provided by the Franchise Tax Board. He described his experience at the training and informed the Commission that he will attend a second week of auditor training at the end of October.

VIII. Discussion and Possible Action re: Approval of Proposed FY 1997-98 Supplemental Budget for referral to the Board of Supervisors.

Executive Director Ginny Vida discussed the draft Request for Supplemental Budget Appropriation to be presented to the Mayor and the Board of Supervisors. Ms. Vida proposed that the Commission request a total of $57,000 for the addition of two permanent staff positions, and two part-time, temporary staff positions, to be filled January 2, 1998. The two permanent staff positions include a Financial Disclosure Auditor and a Senior Clerk Typist.

Commission Vice-Chair Gordon-Creed noted that the Commission may need to request additional support from the Mayor and the Board of Supervisors for future budgets, since the Board had only set aside an additional $100,000 for fiscal year 1997-98.

Ms. Vida noted that she believed that the Board, in approving the $100,000 last July, had intended to provide continuing funding for the additional staff positions for the Commission beyond this fiscal year so that it could more effectively fulfill its mandates.

After some discussion, the Commission agreed to approve of the Supplemental Budget as drafted. The Commission asked Ms. Vida to inform the Mayor and the Board that the Commission anticipates submitting a future request that the two permanent positions will become permanent additions to the Commission's budget.

Motion 97-10-21-55 (Dockendorff/Gordon-Creed) Moved, seconded and passed: That the Proposed FY 1997-98 Supplemental Budget be approved for referral to the Mayor and the Board of Supervisors.

IX. Discussion and Possible Action re: Approval of Proposed Revision of the Lobbyist Manual.

Whistleblower/Educator Naomi Starkman explained the proposed changes to the Lobbyist Manual.

Anita Mayo, of Pillsbury, Madison & Sutro noted that the proposed changes on page 11 of the draft manual should be changed from "Form 2A" to "Form 2B" and questioned the proposed wording on Form 5.

Commission Vice-Chair Gordon-Creed suggested that the new language on Form 5 should read as follows: "report annual amount of pay or consideration if applicable."

Commissioner Dockendorff requested that explanatory language be added to the Manual regarding when and how often Form 5 should be filed. Commission staff noted that this form must only be filed once.

Motion 97-10-21-56 (Gordon-Creed/Grant) Moved, seconded and passed: That the Proposed Revision of the Lobbyist Manual be approved as amended.

X. Discussion and Possible Action re: Proposed List of Commission Initiatives for 1997-98 and Proposed Timetable for Addressing the Initiatives.

Commission Vice-Chair Gordon-Creed commended Ms. Vida for her efforts in preparing the List of Commission Initiatives and indicated his support for the suggested timetable for calendaring the initiatives on future agendas.

Commissioner Melbostad stated that draft language for a proposal requiring lobbyists to disclose City contracts is ready and can soon be calendared for a Commission vote. He also pledged to work with the City Attorney on preparing legislation regulating slate mailer cards. He requested that this item be calendared for the February 1998 Commission meeting. Commissioner Melbostad also asked staff to facilitate such activity and to provide impetus for moving the Commission's agenda forward.

Commission Vice-Chair Gordon-Creed asked Ms. Vida to continue to update the Initiatives List and Timetable and to keep the Commission informed of any changes. Ms. Vida stated that she will do this each month, and that in six months she will begin adding unassigned initiatives to the timetable.

Commissioner Melbostad asked that staff notify "good government" organizations about forthcoming issues calendared for the Commission agenda to encourage greater public participation at Commission meetings.

Motion 97-10-21-56 (Melbostad/Gordon-Creed) Moved, seconded and passed: That the Proposed List of Commission Initiatives for 1997-98 and Proposed Timetable for Addressing those Initiatives be approved.

XI. Discussion and Possible Action re: Recommendations re: Process for Appointment of an Investigator/Auditor.

Executive Director Ginny Vida explained that the Commission's by-laws provide that the Commission has the authority to hire investigators and auditors. She provided the Commission with several options for hiring the new Investigator/Auditor, a position which is now vacant.

The Commission directed Ms. Vida to recommend a single candidate for the position of Investigator/Auditor for appointment by the Commission. The Commission agreed that Ms. Vida may 1) recommend that a qualified member of the staff be promoted to that position, or 2) post the position, review resumes, conduct interviews and identify a candidate. Ms. Vida advised that if she proceeds as in 1) above, she will extend outreach to minority communities in posting future positions to be filled.

XII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission.

There was no public comment.

XIII. Adjournment.

The meeting adjourned at 6:45 p.m.

Respectfully Submitted,

Naomi Starkman
Whistleblower/Educator

Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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SAN FRANCISCO ETHICS COMMISSION AGENDA
and
NOTICE OF MEETING
FOR MONDAY, NOVEMBER 10, 1997, 5:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. **Call To Order and Roll Call**

II. **Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission**

III. **Discussion and Possible Action Re: Approval of minutes of the meeting of October 21, 1997**

IV. **Chairperson's Report**

V. **Commissioners' Reports**

VI. **Executive Director's Report**
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

VII. **Discussion and Possible Action re: Approval of Revised Proposed FY 1997-98 Supplemental Budget for referral to the Mayor, Board of Supervisors and Controller**

Motion: The Ethics Commission approves the revised proposed FY 1997-98 Supplemental Budget and authorizes the Vice-Chair of the Commission to approve further revisions to reflect specific financial information obtained from the Department of Real Estate and other City departments.

VIII. **Discussion and Possible Action re: Adoption of draft FY 1996-97 Annual Report**

IX. **Discussion and Possible Action re: Proposed Amendments to the Lobbyist Ordinance, S.F. Admin Code sections 16.520 through 16.534, including but not limited to: adding legislative findings; clarifying definitions and adding definitions; consolidating the definition of "lobbyist" with the thresholds for qualifying as a lobbyist and the exemptions; increasing the threshold for qualifying as a contract and expenditure lobbyist; requiring that lobbyists report contacts with and payments that benefit designated City employees as well as City officers; clarifying that once a person qualifies as a "lobbyist" the person is subject to the requirements and prohibitions of this Ordinance until the person files a statement of termination; clarifying the disclosure requirements applicable at the time of registration and at the time of filing quarterly activity reports; providing that all lobbyists reregister on January 15 of each year; limiting the aggregate value of gifts from lobbyists to City and County officers and designated employees to $10 per month; prohibiting lobbying on a contingency fee basis; and requiring lobbyists to notify City and County officers and designated employees of the value of gifts conferred.**

(Please turn over for page 2)

X. Discussion and Vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session

XI. Possible closed session held pursuant to Brown Act section 54957 and Sunshine Ordinance section 67.10 to discuss possible appointment of an Investigator/Auditor; and pursuant to Charter section C3.699-13, Brown Act section 54956.9(c) and Sunshine Ordinance 67.11 to discuss pending litigation.

A. Possible appointment of an Investigator/Auditor

B. Conference with Legal Counsel: Anticipated Litigation as Plaintiff
Number of possible cases: 1

XII. Possible report on action taken to appoint an Investigator/Auditor pursuant to Government Code 54957.1(a)(5) and S.F. Administrative Code 67.10(b); and discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion: The Ethics Commission finds that it is the best interests of the public (not) to disclose its closed session deliberations re: personnel (possible appointment of an Investigator/Auditor).

Motion: The Charter provides that deliberations regarding complaints are confidential, Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIII. Discussion and Possible Action re: Recommendations re: Process for Appointment of a Whistleblower/Educator

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

XV. Adjournment

(continued on page 3)

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the SF Admin. Code) or to report a violation of the ordinance contact the Sunshine Ordinance Task Force at 554-6075.

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Minutes of the
San Francisco Ethics Commission
1390 Market St., Room 227
November 10, 1997; 5:00 p.m.

I. Call To Order and Roll Call. Commission Vice-Chair Geoffrey Gordon-Creed called the meeting to order at 5:15 p.m. The following were present:

COMMISSIONERS PRESENT: Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Isabella H. Grant, Commissioner. Commissioner Paul H. Melbostad joined the meeting in progress.

STAFF PRESENT: Ginny Vida, Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Whistleblower/Educator

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, November 10, 1997
Approved Minutes of the SF Ethics Commission: Meeting of September 8, 1997
Draft Minutes of the SF Ethics Commission: Special Meeting of October 21, 1997
Executive Director's Report, November 10, 1997
Whistleblower Hotline Tracking Chart, November 10, 1997
Draft Supplemental Budget Proposal, November 7, 1997
Draft Annual Report, July 1996 – June 1997, November 5, 1997
Summary of Proposed Amendments to the Lobbyist Ordinance, November 6, 1997
Proposed Amendments to the Lobbyist Ordinance, November 4, 1997
Letter dated November 10, 1997, from Anita Mayo, Pillsbury Madison & Sutro, re: proposed amendments to the Lobbyist Ordinance
Memo re: Process for Appointing a Whistleblower/Educator, November 7, 1997

II. Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

III. Discussion and Possible Action Re: Approval of minutes of the meeting of October 21, 1997.

Motion 97-11-10-57 (Grant/Dockendorff) Moved, seconded and passed: That the minutes of the October 21, 1997 meeting be approved.

IV. Chairperson's Report

Commission Vice-Chair Geoffrey Gordon-Creed advised that former Commission Chair Carl Williams has resigned from the Commission. Commissioner Gordon-Creed thanked Mr. Williams for his service to the Commission and wished him well in his future endeavors.

Commissioner Gordon-Creed asked that Commissioners who wished to request calendaring of items for future agendas make such requests during their Commissioners' Reports.

V. Commissioners' Reports

Commissioner Dockendorff requested that amendment of the Commission's bylaws be calendared for a future meeting. He stated that the bylaws should require that Commission members must sit on the Commission for a minimum of 6 months before being eligible to serve as Chairperson.

VI. Executive Director's Report

A. Advice and Opinions issued

B. Updates

C. Projects and Activities

Executive Director Ginny Vida reported that staff will begin to undertake the necessary steps for implementation of Proposition G. Ms. Vida advised that the Commission will need to propose fees for approval by the Board of Supervisors. She noted that the Commission will also need to prepare a manual and forms, create a database for tracking filings and perform other implementation tasks. Ms. Vida noted that these activities will add considerably to the staff's work load.

Commissioner Gordon-Creed requested that Ms. Vida prepare an assessment of the Commission's duties regarding Proposition G to be distributed in advance of the next agenda.

Ms. Vida stated that she will adjust the proposed Initiatives Timetable to reflect these added responsibilities.

Ms. Vida stated that Whistleblower/Educator Naomi Starkman had prepared and issued the Third Quarter 1997 Lobbyist Report and had expanded the report to include detailed information regarding City officers or departments contacted and whether the lobbyists supported or opposed the legislative or administrative action.

Commissioner Gordon-Creed commented that the Report is easier to read and thanked Ms. Starkman for her contributions.

VII. Discussion and Possible Action re: Approval of Revised Proposed FY 1997-98 Supplemental Budget for referral to the Mayor, Board of Supervisors and Controller

Ms. Vida discussed the options regarding the Commission's move to larger premises. She advised that she had sent a letter to Mayor Brown requesting that the Ethics Commission be relocated to City Hall when it is reoccupied in December 1998. She noted that the Department of Elections will be moving back into City Hall and that it would be useful for campaign filers and the public if the two offices were located near each other. She advised that she will meet with Tony Irons, City Hall Project Manager, on November 12 to discuss this request. Commissioner Melbostad asked Ms. Vida to request that a public hearing room be made available for all commissions in City Hall. The Commissioners agreed that this request should be made.

After some discussion, the following motion was unanimously approved:

Motion 97-11-10-58 (Grant/Dockendorff) Moved, seconded and passed: The Ethics Commission approves the revised proposed FY 1997-98 Supplemental Budget and authorizes the Vice-Chair of the Commission to approve further revisions to reflect specific financial information obtained from the Department of Real Estate and other City departments.

VIII. Discussion and Possible Action re: Adoption of draft FY 1996-97 Annual Report

Commissioner Dockendorff requested, and the Commission agreed, that approval of the draft Annual Report be recalendared for the December 8 meeting to allow additional time for review.

IX. Discussion and Possible Action re: Proposed Amendments to the Lobbyist Ordinance, S.F. Admin Code sections 16.520 through 16.534, including but not limited to: adding legislative findings; clarifying definitions and adding definitions; consolidating the definition of "lobbyist" with the thresholds for qualifying as a lobbyist and the exemptions; increasing the threshold for qualifying as a contract and expenditure lobbyist; requiring that lobbyists report contacts with and payments that benefit designated City employees as well as City officers; clarifying that once a person qualifies as a "lobbyist" the person is subject to the requirements and prohibitions of this Ordinance until the person files a statement of termination; clarifying the disclosure requirements applicable at the time of registration and at the time of filing quarterly activity reports; providing that all lobbyists reregister on January 15 of each year; limiting the aggregate value of gifts from lobbyists to City and County officers and designated employees to $10 per month; prohibiting lobbying on a contingency fee basis; and requiring lobbyists to notify City and County officers and designated employees of the value of gifts conferred.

Commissioner Gordon-Creed noted that Anita Mayo of Pillsbury, Madison and Sutro had submitted a letter to the Commission regarding the proposed changes. The Commission discussed the proposed amendments in the order that they appeared in the draft.

1. Section 16.510 adds legislative findings. There was no comment on this section.

2. Section 16.521 alphabetizes and clarifies definitions and adds new definitions.

   A. Section 16.521 (a) "Activity Expenses"

Staff noted that this subsection adds to the definition of "activity expenses" payments which benefit the registered domestic partner of City officers and candidates, as well as aides to members of the Board of Supervisors. Staff noted that this change was approved by the Commission last year when it approved modifications to the lobbyist forms.

Staff noted that this subsection adds payments which benefit designated City employees as well as payments which benefit members of the immediate family or the registered domestic partner of a designated employee. (Per Ch. 58 of the S.F. Admin. Code, designated employees are required to file annual statements of economic interests.) Staff noted that this change is recommended to create uniformity in the reporting of activity expenses. Staff stated that designated City employees are often in a position to make or participate in making significant policy decisions and recommended that payments that benefit designated employees should be reported.

Anita Mayo of Pillsbury, Madison and Sutro stated that the proposed amendment extends the disclosure to all designated employees, regardless of whether the lobbyist is lobbying that employee's agency. She recommended against adoption of this amendment.

Commissioner Gordon-Creed noted that the City has already designated those employees in the Administrative Code and that based on the staff's recommendation, he feels comfortable extending this reporting requirement to designated City employees.

Staff noted that this subsection adjusts the threshold (currently $20 in a calendar month) to $30 in a consecutive three-month period. Ms. Mayo commented that extending the $30 threshold over a three-month period will result in unnecessary confusion. Commissioner Gordon-Creed stated that he did not believe this change would cause unnecessary confusion.

Ms. Mayo stated that it is inconsistent with the Ordinance's reporting provisions to require lobbyist's clients to report activity expenses and suggested that the reference to a lobbyists' clients should be deleted from the definition of activity expenses.

Staff stated that lobbyists are not currently reporting activity expenses, if any, made by their clients to benefit City officers. Staff noted that either lobbyists may be confused

about this requirement or that their clients may not be making such activity expenses to City officers.

Commissioner Melbostad stated that if the language were removed, there would be nothing to prevent lobbyists from asking their clients to make gifts on their behalf.

Deputy City Attorney Julie Moll suggested adding the language "at the behest of the lobbyist" to clarify that the lobbyist is only required to report activity expenses made by the client at the direction of the lobbyist.

Commissioner Melbostad stated that this language would be satisfactory.

B. Section 16.521(c).

Ms. Mayo stated that the term "client" has practical meaning only for contract lobbyists who contract for economic consideration to lobby on behalf of others, i.e., their clients. She recommended deleting the second sentence of this subsection.

Staff stated that it would consider Ms. Mayo's suggestion.

C. Section 16.521(d)(1)(D)

Ms. Mayo recommended that the requirement that lobbyists identify the client at a public hearing be deleted. She noted that under state law, no local agency may require a person, as a condition of attending or participating in a public meeting, to identify himself or herself.

Ms. Moll stated that defining the term "contacts" to exclude communications made at a public meeting if the lobbyist identifies the client on whose behalf the lobbyist is speaking is not inconsistent with state law. She explained that the reporting requirements give lobbyists a choice to: 1) identify their clients at the public hearing and *not* be required to report the hearing as a contact, or 2) not identify their clients at the hearing but report the appearance in their quarterly activity report.

The Commissioners decided to leave this subsection intact.

D. Section 16.521(d)(1)(E)

Ms. Mayo recommended clarifying this subsection to include communications concerning a "legal claim" and "litigation" involving the City.

Staff agreed to consider adding language that explicitly includes claims filed pursuant to the Administrative Code.

E. Section 16.521(d)(1)(G)

Ms. Mayo recommended the deletion of the words, "provided that the written information is a public record available for public review." She recommended adding a presumption to this section that the records will be made public and available for public review. Staff noted that it will consider this suggestion.

F. Section 16.521(d)(1)(I)

Ms. Mayo suggested revising this subsection to include the provision of oral information as well as written information.

The Commissioners agreed to incorporate this suggestion.

G. Section 16.521(d)(1)(M)

Ms. Mayo recommended that this section be clarified and stated that the term "testimony" is inappropriate. She recommended the following language: "An expert employed or retained by a lobbyist registered under this Article to provide information to an officer or designated employee of the City and County."

Staff recommended including the term "expert witness" in subsection (D).

The Commissioners stated that they would consider new draft language.

H. Section 16.521(d)(1)(O)

It was recommended *that* the words "significant segment" *be included* before "the person's employees or members."

Staff agreed to consider this suggestion.

Ms. Mayo also recommended the addition of a subsection to Section 16.521(d)(1) to include communications in connection with the administration of a contract as an exemption from the definition of "contact." She noted that this suggestion is based on advice issued by the Ethics Commission in June 1995.

Staff agreed to consider this suggestion and report back to the Commission.

Ms. Mayo recommended preserving the exemption under Section 16.522(6) of the current Ordinance regarding a person communicating with City officers or departments with respect to construction related permits. Staff explained that this exemption is inconsistent with the general purposes of the Ordinance because the information listed in that section should be available to the public.

The Commissioners stated that they would consider this suggestion.

Ms. Mayo noted that under Section 16.522(4) of the current Ordinance, a person invited by or on behalf of any officer to confer, consult or give testimony falls outside the scope of the Ordinance. Under the proposed legislation, this language has been removed. Ms. Mayo recommended that this provision be included as an exemption from the definition of "contact" under proposed Section 16.521(d)(1).

Staff agreed to consider this suggestion.

X. Discussion and Vote pursuant to Sunshine Ordinance section 67.11(a) as to whether to conduct a closed session. The following motion was approved unanimously:

Motion No. 97-11-10-59 (Dockendorff/Grant) Moved, seconded and passed: That the Commission conduct a closed session pursuant to Sunshine Ordinance 67.11(a).

XI. Closed Session.

A closed session was held to discuss the possible appointment of an Investigator/Auditor and to confer with Legal Counsel regarding anticipated litigation as plaintiff.

The Commission adjourned to open session at 6:30 p.m.

XII. Possible report on action taken to appoint an Investigator/Auditor pursuant to Government Code 54957.1(a)(5) and S.F. Administrative Code 67.10(b); and discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.14 on whether to disclose action taken or discussions held in closed session.

Motion No. 97-11-10-60 (Dockendorff/Grant) Moved, seconded and passed: The Ethics Commission finds that it is the best interests of the public to disclose that the Commission had appointed Whistleblower/Educator Naomi Starkman to the position of Investigator/Auditor by a unanimous vote.

Motion No. 97-11-10-61 (Dockendorff/Grant) Moved, Seconded and passed: Pursuant to section C3.699-13, the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: pending litigation.

XIII. Discussion and Possible Action re: Recommendations re: Process for Appointment of a Whistleblower/Educator

The Commission approved Ms. Vida's recommendation that she post the position of Whistleblower/Educator, identify candidates to be interviewed, conduct the interviews,

and select one candidate for presentation to the Commission for appointment to the position.

XIV. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission.

There was no public comment.

XV. Adjournment. The meeting was adjourned at 7:40 p.m.

Respectfully Submitted,

Naomi Starkman
Investigator/Auditor

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Ethics Commission

1390 Market Street, Suite 701
San Francisco CA 94102
Phone 554-9510 Fax 703-0121

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SAN FRANCISCO ETHICS COMMISSION AGENDA
and
NOTICE OF MEETING
FOR MONDAY, DECEMBER 8, 1997, 5:00 P.M.
1390 MARKET STREET, MEZZANINE CONFERENCE ROOM 227

I. **Call To Order and Roll Call**

II. **Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission**

III. **Discussion and Possible Action Re: Approval of minutes of the meeting of Nov. 10, 1997**

IV. **Chairperson's Report**

V. **Commissioners' Reports**

VI. **Executive Director's Report**
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

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VII. **Discussion and Possible Action re: Adoption of enhanced standard filing formats for mandatory use by electronic campaign filers for all electronic filings received after 2/1/97**

VIII. **Discussion and Possible Action re: Adoption of draft FY 1996-97 Annual Report**

IX. **Discussion and Possible Action re: Adoption of Proposed Timetable for Implementation of Proposition G re: Regulation of Campaign Consultants**

X. **Discussion and Possible Action re: Proposed Amendments to the Lobbyist Ordinance, S.F. Admin. Code sections 16.520 through 16.534, including but not limited to: adding legislative findings; clarifying definitions and adding new definitions; consolidating the definition of "lobbyist" with the thresholds for qualifying as a lobbyist and the exemptions; increasing the qualification thresholds for contract lobbyists from $1,000 to $3,500; increasing the qualification threshold for expenditure lobbyists from $1,000 to $5,000; clarifying and adding new exemptions; clarifying that once a person qualifies as a lobbyist the person is subject to the requirements and prohibitions of the Ordinance until the person ceases all lobbyist activity and files a statement of termination; requiring that lobbyists report contacts with and payments that benefit certain designated employees as well as City officers; clarifying the disclosure requirements applicable at the time of registration and at the time of filing quarterly activity reports; providing that all lobbyists re-register on January 15 of each year, rather than 15 days after the close of the calendar quarter that includes the anniversary of the date of initial registration; limiting the aggregate value of gifts from lobbyists to each City and County officer and to certain designated employees to $10 per**

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month; prohibiting lobbying on a contingency fee basis; requiring lobbyists to notify City and County officers and designated employees of the value of gifts conferred; limiting political contributions by lobbyists; and adding transition provisions for implementation of these amendments.

XI. Discussion and Possible Action re: Recommendations re: Revised Process for Appointment of a Whistleblower/Educator

XII. Discussion and Possible Action re: Items for Future Agendas

XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission

XIV. Adjournment

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Minutes of the
San Francisco Ethics Commission
1390 Market St., Room 227
December 8, 1997; 5:00 p.m.

I. Call To Order and Roll Call. Commission Vice-Chair Geoffrey Gordon-Creed called the meeting to order at 5:10 p.m.. The following were present:

COMMISSIONERS PRESENT: Geoffrey Gordon-Creed, Vice-Chair; Robert D. Dockendorff, Commissioner; Isabella H. Grant, Commissioner; Paul H. Melbostad, Commissioner; Henri Norris, Commissioner

STAFF PRESENT: Ginny Vida, Executive Director; Shawn Allison, Administrative Assistant; Naomi Starkman, Investigator/Auditor

OFFICE OF THE CITY ATTORNEY: Julie Moll, Deputy City Attorney

OTHERS PRESENT: Anita Mayo, Pillsbury Madison & Sutro; Chris Bowman, Campaign Consultant; David Pilpel

MATERIALS DISTRIBUTED:
SF Ethics Commission Agenda, December 8, 1997
Approved Minutes of the SF Ethics Commission: Special Meeting of October 21, 1997
Draft Minutes of the SF Ethics Commission: Meeting of November 10, 1997
Executive Director's Report, December 8, 1997
Whistleblower Hotline Tracking Chart, December 8, 1997
Letters to Mayor Willie L. Brown, Jr. and Edward Harrington, Controller, regarding the Ethics Commission's Supplemental Budget Proposal, November 24, 1997
Supplemental Budget Proposal, November 24, 1997
Request for Supplemental Budget Appropriation, November 21, 1997
List of Proposed Initiatives, October 21, 1997
Timetable for Commission Initiatives, December 4, 1997
Letter to All Departments, Boards and Commissions regarding Lobbyists Registered with the Ethics Commission, November 24, 1997
Draft Annual Report, July 1996 – June 1997, November 5, 1997
Proposed Time Line for Implementation of Prop G, December 5, 1997
Summary of Proposed Amendments to the Lobbyist Ordinance, December 3, 1997
Proposed Amendments to the Lobbyist Ordinance, December 3, 1997
Letter dated November 10, 1997, from Anita Mayo, Pillsbury Madison & Sutro, re: proposed amendments to the Lobbyist Ordinance

II. Public Comment Re: Matters appearing or not appearing on the Agenda that are within the jurisdiction of the Ethics Commission.

There was no public comment.

III. Discussion and Possible Action Re: Approval of minutes of the meeting of November 10, 1997.

Anita Mayo of Pillsbury, Madison and Sutro requested that the minutes be amended to reflect the following language on page 6: "*It was* recommended that the words 'significant segment' *be included* before 'the person's employees or members'."

Motion 97-12-08-62 (Melbostad/Grant) Moved, seconded and passed: That the minutes of the November 10, 1997 meeting be approved as amended.

IV. Chairperson's Report.

Vice Chair Geoffrey Gordon-Creed welcomed Henri Norris as a member of the Ethics Commission. Commissioner Norris, who was appointed by Mayor Brown to this position, has represented clients with personal injuries caused by the intrauterine device known as the Dalkon Shield. She was Director of the Multicultural Alliance for the Prevention of AIDS at Bayview Hunters Point Foundation. Ms. Norris currently sits on the Board of the California Black Women's Health Project and is also the founder of New Millennia Films, a film distribution company.

V. Commissioners' Reports.

There were no reports from the Commissioners.

VI. Executive Director's Report
A. Advice and Opinions issued
B. Updates
C. Projects and Activities

Executive Director Ginny Vida reported that she submitted the Commission's supplemental budget to the Mayor's office and the Controller's office on November 24, 1997. She noted that the new initiatives budget for FY 1998-99 is due in February. She also informed the Commission that she may need to propose an additional staff position to administer the lobbyist program and campaign consultant program. Ms. Vida informed the Commission that staff will occupy the new office space, suite 801, located directly above the current office, beginning December 15.

Ms. Vida stated that the staff had met with representatives from the Secretary of State's office, the FPPC and the Los Angeles Ethics Commission on December 2 regarding the adoption of enhanced standard filing formats. She informed the Commission that the Secretary of State will issue its filing format version on December 15 and that the Commission's format will be prepared for the next agenda in January. She also noted that filers may express some concern regarding the filing format due to the fact that they will now be required to use a prescribed format. She explained that heretofore filers used various, inconsistent formats and the information from those formats was not easily transferable to the Commission's web site.

Ms. Vida noted that Commissioner Melbostad had requested an addition to the List of Initiatives. Commissioner Melbostad had proposed recommending a change in state law under which a payment or contributions received by affiliated entity of a political party would be considered a contribution to the political party committee and subject to the contribution limit of $5,000. Ms. Vida advised that staff is reviewing a new regulation issued by the FPPC that may provide a remedy to the issue raised by Commissioner Melbostad.

Ms. Vida also noted that she will update the Commission's timetable to include the implementation of Prop G.

Deputy City Attorney Julie Moll noted that the Prop G legislation provides that the fees must be proposed by the Commission for approval by the Board of Supervisors no later than December 1 for implementation during the following calendar year.

Ms. Vida explained that it was not possible to propose fees for implementation in 1998 in the short period following the election. She also explained that is not possible to propose fees until the Commission has experience in administering the program. For these reasons, Ms. Vida explained, the Commission will not be able to charge consultants any fees until its second year of administering the program (1999).

Commissioner Dockendorff stated that he felt it was important that the Commission not include in its supplemental budget any request for money for Prop G. He noted that the Controller had stated in the voter information pamphlet that administration of the program would be self-funding.

Ms. Vida noted that the Supplemental Budget just submitted includes a small funding request for implementation of Prop G.

It was agreed, per Commissioner Gordon-Creed's suggestion, that the Commission will inform the Finance Committee of the Commission's plan to propose fees for implementation in 1999 so that the campaign consultant program will be self-funding after the initial start-up year.

VII. Discussion and Possible Action re: Adoption of enhanced standard filing formats for mandatory use by electronic campaign filers for all electronic filings received after 2/1/97.

The Commissioners decided to continue this item until its next meeting on January 12, 1998.

VIII. Discussion and Possible Action re: Adoption of draft FY 1996-97 Annual Report.

Commissioner Gordon-Creed noted that Commissioner Dockendorff had suggested revising the annual report to include opinions issued by the City Attorney and the FPPC that might affect the Commission's jurisdiction.

Executive Director Ginny Vida thanked Commissioner Dockendorff for his suggestions, and for calling attention to a Charter mandate requiring the Commission to report annually to the Mayor and the Board of Supervisors on the effectiveness of laws within the Commission's jurisdiction. She noted that the Commission has not yet addressed this mandate because of limited resources. Ms. Vida stated that, in her view, the annual report should highlight the Commission's accomplishments. She proposed including relevant City Attorney opinions in a separate report to the Mayor and Board on the effectiveness of the ethics-related laws.

Commissioner Gordon-Creed stated that the annual report should be a reflection of what the Commission has undertaken in a particular year.

Commissioner Grant suggested that the annual report be amended to include the FPPC opinion on the Commission's jurisdiction as filing officer. She also proposed that the Commission post on its web site a summary of, and the text of, laws within its jurisdiction.

The Commission agreed to implement the above suggestions.

Motion 97-12-08-63 (Dockendorff/Grant) Moved, seconded and passed: That the draft FY 1996-97 Annual Report be adopted as amended.

IX. Discussion and Possible Action re: Adoption of Proposed Timetable for Implementation of Proposition G re: Regulation of Campaign Consultants.

Executive Director Ginny Vida noted that staff has proposed that the first quarterly campaign consultant filing take place on June 15, 1998. She advised that the campaign consultant filing is one month earlier than the corresponding lobbyist filing (July 15). She indicated that staff will devote the first quarter of 1998 to preparation of the manual and forms, and education of filers. Based on the first filing, staff will record the cost of administering the program and then propose cost-based fees. The proposed timetable anticipates that a Commission-approved proposal for fees will be submitted to the Board of Supervisors on August 11, 1998. If approved by the Board and the Mayor, the fees will be imposed early in 1999. Ms. Vida noted that while the Commission will not be able to collect fees prior to that time, the disclosure requirements of the ordinance will be implemented, as consultants will be required to file three quarterly reports in 1998.

Commissioner Melbostad stated that the proposed fees should be reasonable in light of the cost of administering the program. He suggested basing the fees on the current lobbyist registration fees.

Ms. Vida noted that the costs may not be comparable; there may be many more campaign consultants due to the lower threshold in Prop G. She stated that staff member Joe Lynn has done initial research to determine who might qualify as a campaign consultant. Mr. Lynn reviewed candidate campaign filings for 1996 and recorded payments made to campaign consultants. From this information, staff has been able to determine who might qualify and has compiled a mailing list of potential campaign consultants. Ms. Vida also

noted that the staff has discussed a possible sliding scale of fees for campaign consultants, based on payments they receive for their services.

Chris Bowman, a campaign consultant, recommended a sliding scale and suggested that fees be based on 1% of income earned by a campaign consultant. He also urged that the Commission notify potential campaign consultants early in 1998 that they must record their earnings for the three months preceding their initial filing in June. Mr. Bowman also stated that as a campaign consultant, he is often reimbursed for parking, photocopying and the like. He asked the Commission not to consider reimbursement for such items as income. He also requested that the Commission's mailing list of potential campaign consultants be made public so that those persons may in turn notify others who may qualify as campaign consultants.

Commissioner Gordon-Creed invited Mr. Bowman to attend forthcoming Commission meetings in February and March, at which the Commission anticipates discussion and possible action on the campaign consultants manual and forms. It was agreed that the Commission would notify potential campaign consultants of these meetings, and that the Commission would notify potential campaign consultants by February to maintain their records for the June 15 filing.

X. Discussion and Possible Action re: Proposed Amendments to the Lobbyist Ordinance, S.F. Admin. Code sections 16.520 through 16.534, including but not limited to: adding legislative findings; clarifying definitions and adding new definitions; consolidating the definition of "lobbyist" with the thresholds for qualifying as a lobbyist and the exemptions; increasing the qualification thresholds for contract lobbyists from $1,000 to $3,500; increasing the qualification threshold for expenditure lobbyists from $1,000 to $5,000; clarifying and adding new exemptions; clarifying that once a person qualifies as a lobbyist the person is subject to the requirements and prohibitions of the Ordinance until the person ceases all lobbyist activity and files a statement of termination; requiring that lobbyists report contacts with and payments that benefit certain designated employees as well as City officers; clarifying the disclosure requirements applicable at the time of registration and at the time of filing quarterly activity reports; providing that all lobbyists re-register on January 15 of each year, rather than 15 days after the close of the calendar quarter that includes the anniversary of the date of initial registration; limiting the aggregate value of gifts from lobbyists to each City and County officer and to certain designated employees to $10 per month; prohibiting lobbying on a contingency fee basis; requiring lobbyists to notify City and County officers and designated employees of the value of gifts conferred; limiting political contributions by lobbyists; and adding transition provisions for implementation of these amendments.

The Commission continued its discussion of the proposed amendments in the order in which they appeared in the draft dated December 3, 1997.

1. Section 16.521(f)

Anita Mayo of Pillsbury, Madison and Sutro questioned the inclusion of the term "gifts" in this subsection. Staff explained that a person may qualify as a lobbyist based on any gifts received, provided that the fair market value of the gift(s) meets the threshold set forth in the ordinance.

The Commission decided to retain this term.

2. Section 16.521(j)(A) - (C)

Ms. Mayo stated that the phrase "become entitled to receive" has proven problematic for contract lobbyists because the phrase is not defined. She recommended deleting this phrase.

Commissioner Gordon-Creed questioned whether a person might structure his/her billing to evade qualifying as a lobbyist.

Deputy City Attorney Julie Moll noted that it might be possible for a person to earn $3,500 in one month but structure his or her payments so that he or she receives less than $3,500 in one month.

David Pilpel stated that the term "entitled to receive" should remain intact.

Ms. Mayo noted that the term "entitled to receive" should at least be defined.

Commissioner Gordon-Creed asked Ms. Mayo to recommend to the staff a definition for this term, and she agreed to do so.

Investigator/Auditor Naomi Starkman noted that the staff is recommending that the Commission increase the monetary threshold for qualification as a contract lobbyist from $1,000 to $3,500 because the threshold has not been adjusted since 1988. She noted that the Board of Supervisors recently approved increases in lobbyist registration fees from $35 to $300 and client fees from $15 to $50. These new fees are the same as those imposed by the L.A. Ethics Commission, which has a $4,000 threshold for qualification as a lobbyist. Ms. Starkman said that staff recommends raising the threshold in light of the new registration fees. Because contract lobbyists represent at least one client (at $50), staff recommends increasing the monetary threshold to $3,500, a 10-fold multiple of the $350 minimum registration amount a contract lobbyist must pay.

At the Commission's request, Ms. Starkman agreed to prepare a report for the January meeting indicating how many currently registered lobbyists would no longer qualify as lobbyists based on the recommended threshold. Commissioner Gordon-Creed asked that Ms. Starkman's report reflect the fact that the Commission has not yet decided whether to raise the monetary threshold for contract lobbyists.

Ms. Mayo commented that the phrase "economic consideration . . . . promised" should also be deleted. The Commission noted her comments.

3. Section 16.521(k)

Ms. Mayo questioned the inclusion of the term "other than subsection (d)(1)(C) of Section 16.521."

Staff explained that it recommends this language to clarify that a lobbyist must report payments made or received for testimony at public meetings, even if the lobbyist does not have to report the testimony as a "contact."

The Commission decided to retain this language.

4. Section 16.521(l)

Ms. Mayo noted that the Board of Supervisors makes decisions regarding settlements in the form of an ordinance. She stated that sometimes employees of companies who are intimately involved in the settlement may contact Board members regarding the settlement. She asked if the employees of the company would be deemed to be "lobbying" in that context.

Commissioner Melbostad stated that if the employee is not an attorney undertaking legal action (and thereby exempt from the ordinance) the activity may be considered lobbying.

The Commission asked the staff to consider this situation further.

5. Section 16.521(o)

Ms. Mayo stated that the term "promised" regarding payments has proven confusing for lobbyists. She recommended removing this term and noted that under state law, lobbyists only have to report actual payments received.

Commissioner Gordon-Creed asked Ms. Mayo to recommend to the staff either alternative language or a definition for the term "promised." Ms. Mayo agreed to do so.

Executive Director Ginny Vida stated that the lobbyist forms and manual could clarify how one can report promised payments.

David Pilpel noted that filers of campaign disclosure reports are required to indicate promised payments.

6. Section 16.521(o)(5)

Ms. Mayo questioned the inclusion of Section 16.521(P).

Staff noted that the definition of "person" includes a corporation and would apply to business and organization lobbyists. Staff agreed to consider this section and report back to the Commission at the next meeting.

7. Section 16.522(b)(2)(A)

Ms. Mayo thanked the staff for including the breakdown in this subsection.

8. Section 16.522(b)(2)(F)

Ms. Mayo questioned requiring lobbyists to tally the number of contacts in this subsection but not in the quarterly report section.

Staff explained that it is only necessary for lobbyists to count the total number of contacts initially to determine whether they will qualify as lobbyists. Staff stated that this requirement would assist lobbyists in complying with the initial reporting requirements.

9. Section 16.522(b)(5)

Ms. Mayo stated that the public may be confused by the phrase "or made by a client at the best of the filer."

Staff stated that the lobbyist forms could be drafted to address this potential confusion so that lobbyists report separately those political contributions made by lobbyists, and those contributions made by their clients at the lobbyists' behest.

The Commission decided to retain this language.

10. Section 16.522(b)(7)

Ms. Mayo questioned the inclusion of Section 16.521(P).

Staff stated that it would consider this section and report back to the Commission at the next meeting.

11. Section 16.522(d)(2)

Ms. Mayo stated that the public may be confused by the phrase "or made by a client at the behest of the filer."

Staff stated that the lobbyist forms and manual could be drafted to address this potential confusion.

12. Section 16.522(d)(7)

Commissioner Melbostad stated that he is working on new language for this section. He suggested the following new language: "Payments made by City and County officers to the filer during the reporting period, *provided that the filer contacted the officer during the reporting period.*" He also suggested that the phrase "during the reporting period" provides for too short a time frame. He suggested making the time frame one year.

Commissioner Grant stated that the term "reporting period" should be left intact.

Commissioner Melbostad stated that he would continue to draft the language and submit it for the next meeting.

After some discussion, the Commission decided to exempt routine business transactions that are for fair market value from this section.

XI. Discussion and Possible Action re: Recommendations re: Revised Process for Appointment of a Whistleblower/Educator

Executive Director Ginny Vida requested that the Commission revise its previously approved process for appointment of a Whistleblower/Educator to allow for earlier appointment of a candidate to that position.

The following motion was unanimously approved:

Motion 97-12-08-64 (Grant/Dockendorff) Moved, seconded and passed: That the Executive Director may select a candidate for the position of Whistleblower/Educator and fax the selected candidate's resume to the Commission; if no Commissioners request that the matter be deferred until the January meeting within three days of receiving the resume, the candidate will be deemed approved.

It was agreed that if no Commissioners request that the matter of selection be deferred, the Commission will confirm the appointment at the January meeting.

XII. Discussion and Possible Action re: Items for Future Agendas.

Commissioner Dockendorff requested that the Commission consider appealing the FPPC's opinion limiting the Commission's authority to serve as filing officer with respect to campaign contribution and expenditure reports and authorizing the Department of Elections to continue to serve as filing officer for certain campaign statements. Commissioner Dockendorff stated that the Commission is unable to fulfill its Charter mandate as filing officer because of the FPPC opinion.

David Pilpel noted that he is working on state legislation that should address this issue.

Commissioner Melbostad stated that he is still working on drafting language regarding the regulation of slate cards. He said that he will draft language similar to the bill written by Senator Burton that was vetoed by the Governor.

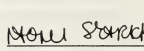
XIII. Public Comment Re: Matters Appearing or Not Appearing on the Agenda which are within the jurisdiction of the Ethics Commission.

David Pilpel stated that the Sunshine Ordinance Task Force may be contacting the Commission to seek the Commission's assistance regarding staffing for the Sunshine Ordinance Task Force.

XIV. Adjournment.

The Commission adjourned at 7:45 p.m.

Respectfully Submitted,



Naomi Starkman
Investigator/Auditor

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